

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1956

By: Mazzei and Wilson of the
Senate

6 and

7 Terrill, Jones and Derby of
8 the House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 36
12 O.S. 2001, Section 312.1, as last amended by Section
13 17, Chapter 46, 2nd Extraordinary Session, O.S.L.
14 2006 (36 O.S. Supp. 2007, Section 312.1), which
15 relates to insurance premium tax; prohibiting certain
16 tax credits from reducing amounts apportioned to
17 specified pension systems; amending 68 O.S. 2001,
18 Sections 1356, as last amended by Section 5, Chapter
19 353, O.S.L. 2007, and 1357, as last amended by
20 Section 1, Chapter 253, O.S.L. 2007 (68 O.S. Supp.
21 2007, Sections 1356 and 1357), which relate to sales
22 tax; providing exemption for sales by or to certain
23 school foundations before specified date; providing
24 exemption for sales of certain rolling stock before
specified date; defining term; amending 68 O.S. 2001,
Section 2357.41, as last amended by Section 15,
Chapter 272, O.S.L. 2006, and Section 1, Chapter 287,
O.S.L. 2005, as amended by Section 2, Chapter 252,
O.S.L. 2007 (68 O.S. Supp. 2007, Sections 2357.41 and
2357.67), which relate to tax credits; expanding
certain requirement relating to income tax credits
for qualified rehabilitation expenditures by
requiring certain agreement to be filed with Oklahoma
Tax Commission; providing that certain transfer is
perfected under specified circumstances; expanding
required contents of certain written agreement;
requiring Oklahoma Tax Commission to develop

1 specified system; limiting the liability for
2 disallowed credit under specified circumstances;
3 providing for carryforward for certain tax credit for
4 biodiesel facility; amending 68 O.S. 2001, Section
5 2913, as amended by Section 4, Chapter 77, O.S.L.
6 2006 (68 O.S. Supp. 2007, Section 2913), which
7 relates to ad valorem tax; establishing penalty for
8 delinquent taxes under specified circumstances;
9 amending Section 9 of Enrolled Senate Bill No. 1865
10 of the 2nd Session of the 51st Oklahoma Legislature,
11 which relates to tax incentive reviews; deleting
12 provision requiring confidentiality; amending 68 O.S.
13 2001, Section 2357.35, as amended by Section 1,
14 Chapter 429, O.S.L. 2005, 2357.36, as amended by
15 Section 2, Chapter 429, O.S.L. 2005, 2357.37, as
16 amended by Section 3, Chapter 429, O.S.L. 2005,
17 2357.38, as amended by Section 4, Chapter 429, O.S.L.
18 2005, 2357.39, as last amended by Section 5, Chapter
19 429, O.S.L. 2005 and 2357.40, as amended by Section
20 6, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
21 Sections 2357.35, 2357.36, 2357.37, 2357.38, 2357.39
22 and 2357.40), which relate to the Oklahoma Tourism
23 Development Act; expanding tax credit to digital
24 media; modifying definitions; changing minimum
required costs for film and music production
facilities projects; prohibiting certain authorized
tax credits from being granted after certain date;
amending 68 O.S. 2001, Sections 3623, as last amended
by Section 1, Chapter 341, O.S.L. 2007, 3624, as last
amended by Section 2, Chapter 341, O.S.L. 2007 and
3626 (68 O.S. Supp. 2007, Sections 3623 and 3624),
which relate to the Compete with Canada Film Act;
modifying certain definition; providing an additional
rebate for production companies using Oklahoma-based
music or recording music in Oklahoma; expanding
certain eligibility requirement; extending
termination date; and providing effective dates

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2001, Section 312.1, as
last amended by Section 17, Chapter 46, 2nd Extraordinary Session,

1 O.S.L. 2006 (36 O.S. Supp. 2007, Section 312.1), is amended to read
2 as follows:

3 Section 312.1 A. For the fiscal year ending June 30, 2004, the
4 Insurance Commissioner shall report and disburse one hundred percent
5 (100%) of the fees and taxes collected under Section 624 of this
6 title to the State Treasurer to be deposited to the credit of the
7 Education Reform Revolving Fund created pursuant to Section 41.29b
8 of Title 62 of the Oklahoma Statutes. The Insurance Commissioner
9 shall keep an accurate record of all such funds and make an itemized
10 statement and furnish same to the State Auditor and Inspector, as to
11 all other departments of this state. The report shall be
12 accompanied by an affidavit of the Insurance Commissioner or the
13 Chief Clerk of such office certifying to the correctness thereof.

14 B. For the fiscal year beginning July 1, 2006, and for each
15 fiscal year thereafter, the Insurance Commissioner shall apportion
16 an amount of the taxes and fees received from Section 624 of this
17 title, which shall be at least One Million Two Hundred Fifty
18 Thousand Dollars (\$1,250,000.00) each year, but which shall also be
19 computed on an annual basis by the Commissioner as the amount of
20 insurance premium tax revenue loss attributable to the provisions of
21 subsection H of Section 625.1 of this title and increased if
22 necessary to reflect the annual computation, and which shall be
23 apportioned before any other amounts, to the following pension
24 systems and in the following amounts:

1 1. Sixty-five percent (65%) to the Oklahoma Firefighters
2 Pension and Retirement Fund in the manner provided for in Sections
3 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

4 2. Twenty-six percent (26%) to the Oklahoma Police Pension and
5 Retirement System pursuant to the provisions of Sections 50-101
6 through 50-136 of Title 11 of the Oklahoma Statutes; and

7 3. Nine percent (9%) to the Law Enforcement Retirement Fund.

8 C. After the apportionment required by subsection B of this
9 section, for the fiscal years beginning July 1, 2004, and ending
10 June 30, 2009, the Insurance Commissioner shall report and disburse
11 all of the fees and taxes collected under Section 624 of this title
12 and Section 2204 of this title, and the same are hereby apportioned
13 as follows:

14 1. Thirty-four percent (34%) of the taxes collected on premiums
15 shall be allocated and disbursed for the Oklahoma Firefighters
16 Pension and Retirement Fund, in the manner provided for in Sections
17 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

18 2. Seventeen percent (17%) of the taxes collected on premiums
19 shall be allocated and disbursed to the Oklahoma Police Pension and
20 Retirement System pursuant to the provisions of Sections 50-101
21 through 50-136 of Title 11 of the Oklahoma Statutes;

22 3. Six and one-tenth percent (6.1%) of the taxes collected on
23 premiums shall be allocated and disbursed to the Law Enforcement
24 Retirement Fund; and

1 4. All the balance and remainder of the taxes and fees provided
2 in Section 624 of this title shall be paid to the State Treasurer to
3 the credit of the General Revenue Fund of the state to provide
4 revenue for general functions of state government. The Insurance
5 Commissioner shall keep an accurate record of all such funds and
6 make an itemized statement and furnish same to the State Auditor and
7 Inspector, as to all other departments of this state. The report
8 shall be accompanied by an affidavit of the Insurance Commissioner
9 or the Chief Clerk of such office certifying to the correctness
10 thereof.

11 D. After the apportionment required by subsection B of this
12 section, for the fiscal year ending June 30, 2010, and for each
13 fiscal year thereafter the Insurance Commissioner shall report and
14 disburse all of the fees and taxes collected under Section 624 of
15 this title and Section 2204 of this title, and the same are hereby
16 apportioned as follows:

17 1. Thirty-four percent (34%) of the taxes collected on premiums
18 shall be allocated and disbursed for the Oklahoma Firefighters
19 Pension and Retirement Fund, in the manner provided for in Sections
20 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

21 2. Fourteen percent (14%) of the taxes collected on premiums
22 shall be allocated and disbursed to the Oklahoma Police Pension and
23 Retirement System pursuant to the provisions of Sections 50-101
24 through 50-136 of Title 11 of the Oklahoma Statutes;

1 3. Five percent (5%) of the taxes collected on premiums shall
2 be allocated and disbursed to the Law Enforcement Retirement Fund;
3 and

4 4. All the balance and remainder of the taxes and fees provided
5 in Section 624 of this title shall be paid to the State Treasurer to
6 the credit of the General Revenue Fund of the state to provide
7 revenue for general functions of state government. The Insurance
8 Commissioner shall keep an accurate record of all such funds and
9 make an itemized statement and furnish same to the State Auditor and
10 Inspector, as to all other departments of this state. The report
11 shall be accompanied by an affidavit of the Insurance Commissioner
12 or the Chief Clerk of such office certifying to the correctness
13 thereof.

14 E. The disbursements provided for in subsections A, B, C and D
15 of this section shall be made monthly. The Insurance Commissioner
16 shall report annually to the Governor, the Speaker of the House of
17 Representatives, the President Pro Tempore of the Senate and the
18 State Auditor and Inspector, the amounts collected and disbursed
19 pursuant to this section.

20 F. Notwithstanding any other provision of law to the contrary,
21 no tax credit authorized by law enacted on or after July 1, 2008,
22 which may be used to reduce any insurance premium tax liability
23 shall be used to reduce the amount of insurance premium tax revenue
24 apportioned to the Oklahoma Firefighters Pension and Retirement

1 System, the Oklahoma Police Pension and Retirement System or the
2 Oklahoma Law Enforcement Retirement System.

3 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1356, as
4 last amended by Section 5, Chapter 353, O.S.L. 2007 (68 O.S. Supp.
5 2007, Section 1356), is amended to read as follows:

6 Section 1356. Exemptions - Governmental and nonprofit entities.

7 There are hereby specifically exempted from the tax levied by
8 Section 1350 et seq. of this title:

9 1. Sale of tangible personal property or services to the United
10 States government or to the State of Oklahoma, any political
11 subdivision of this state or any agency of a political subdivision
12 of this state; provided, all sales to contractors in connection with
13 the performance of any contract with the United States government,
14 State of Oklahoma or any of its political subdivisions shall not be
15 exempted from the tax levied by Section 1350 et seq. of this title,
16 except as hereinafter provided;

17 2. Sales of property to agents appointed by or under contract
18 with agencies or instrumentalities of the United States government
19 if ownership and possession of such property transfers immediately
20 to the United States government;

21 3. Sales of property to agents appointed by or under contract
22 with a political subdivision of this state if the sale of such
23 property is associated with the development of a qualified federal
24 facility, as provided in the Oklahoma Federal Facilities Development

1 Act, and if ownership and possession of such property transfers
2 immediately to the political subdivision or the state;

3 4. Sales made directly by county, district or state fair
4 authorities of this state, upon the premises of the fair authority,
5 for the sole benefit of the fair authority or sales of admission
6 tickets to such fairs or fair events at any location in the state
7 authorized by county, district or state fair authorities; provided,
8 the exemption provided by this paragraph for admission tickets to
9 fair events shall apply only to any portion of the admission price
10 that is retained by or distributed to the fair authority. As used
11 in this paragraph, "fair event" shall be limited to an event held on
12 the premises of the fair authority in conjunction with and during
13 the time period of a county, district or state fair;

14 5. Sale of food in cafeterias or lunch rooms of elementary
15 schools, high schools, colleges or universities which are operated
16 primarily for teachers and pupils and are not operated primarily for
17 the public or for profit;

18 6. Dues paid to fraternal, religious, civic, charitable or
19 educational societies or organizations by regular members thereof,
20 provided, such societies or organizations operate under what is
21 commonly termed the lodge plan or system, and provided such
22 societies or organizations do not operate for a profit which inures
23 to the benefit of any individual member or members thereof to the
24 exclusion of other members and dues paid monthly or annually to

1 privately owned scientific and educational libraries by members
2 sharing the use of services rendered by such libraries with students
3 interested in the study of geology, petroleum engineering or related
4 subjects;

5 7. Sale of tangible personal property or services to or by
6 churches, except sales made in the course of business for profit or
7 savings, competing with other persons engaged in the same or a
8 similar business or sale of tangible personal property or services
9 by an organization exempt from federal income tax pursuant to
10 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
11 made on behalf of or at the request of a church or churches if the
12 sale of such property is conducted not more than once each calendar
13 year for a period not to exceed three (3) days by the organization
14 and proceeds from the sale of such property are used by the church
15 or churches or by the organization for charitable purposes;

16 8. The amount of proceeds received from the sale of admission
17 tickets which is separately stated on the ticket of admission for
18 the repayment of money borrowed by any accredited state-supported
19 college or university or any public trust of which a county in this
20 state is the beneficiary, for the purpose of constructing or
21 enlarging any facility to be used for the staging of an athletic
22 event, a theatrical production, or any other form of entertainment,
23 edification or cultural cultivation to which entry is gained with a
24 paid admission ticket. Such facilities include, but are not limited

1 to, athletic fields, athletic stadiums, field houses, amphitheaters
2 and theaters. To be eligible for this sales tax exemption, the
3 amount separately stated on the admission ticket shall be a
4 surcharge which is imposed, collected and used for the sole purpose
5 of servicing or aiding in the servicing of debt incurred by the
6 college or university to effect the capital improvements
7 hereinbefore described;

8 9. Sales of tangible personal property or services to the
9 council organizations or similar state supervisory organizations of
10 the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire
11 Boys and Girls;

12 10. Sale of tangible personal property or services to any
13 county, municipality, rural water district, public school district,
14 the institutions of The Oklahoma State System of Higher Education,
15 the Grand River Dam Authority, the Northeast Oklahoma Public
16 Facilities Authority, the Oklahoma Municipal Power Authority, City
17 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
18 Authority, the Oklahoma Department of Veterans Affairs, the Broken
19 Bow Economic Development Authority, Ardmore Development Authority,
20 Durant Industrial Authority, Oklahoma Ordnance Works Authority or to
21 any person with whom any of the above-named subdivisions or agencies
22 of this state has duly entered into a public contract pursuant to
23 law, necessary for carrying out such public contract or to any
24 subcontractor to such a public contract. Any person making

1 purchases on behalf of such subdivision or agency of this state
2 shall certify, in writing, on the copy of the invoice or sales
3 ticket to be retained by the vendor that the purchases are made for
4 and on behalf of such subdivision or agency of this state and set
5 out the name of such public subdivision or agency. Any person who
6 wrongfully or erroneously certifies that purchases are for any of
7 the above-named subdivisions or agencies of this state or who
8 otherwise violates this section shall be guilty of a misdemeanor and
9 upon conviction thereof shall be fined an amount equal to double the
10 amount of sales tax involved or incarcerated for not more than sixty
11 (60) days or both;

12 11. Sales of tangible personal property or services to private
13 institutions of higher education and private elementary and
14 secondary institutions of education accredited by the State
15 Department of Education or registered by the State Board of
16 Education for purposes of participating in federal programs or
17 accredited as defined by the Oklahoma State Regents for Higher
18 Education which are exempt from taxation pursuant to the provisions
19 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
20 including materials, supplies, and equipment used in the
21 construction and improvement of buildings and other structures owned
22 by the institutions and operated for educational purposes.

23 Any person, firm, agency or entity making purchases on behalf of
24 any institution, agency or subdivision in this state, shall certify

1 in writing, on the copy of the invoice or sales ticket the nature of
2 the purchases, and violation of this paragraph shall be a
3 misdemeanor as set forth in paragraph 10 of this section;

4 12. Tuition and educational fees paid to private institutions
5 of higher education and private elementary and secondary
6 institutions of education accredited by the State Department of
7 Education or registered by the State Board of Education for purposes
8 of participating in federal programs or accredited as defined by the
9 Oklahoma State Regents for Higher Education which are exempt from
10 taxation pursuant to the provisions of the Internal Revenue Code, 26
11 U.S.C., Section 501(c)(3);

12 13. a. Sales of tangible personal property made by:
13 (1) a public school,
14 (2) a private school offering instruction for grade
15 levels kindergarten through twelfth grade,
16 (3) a public school district,
17 (4) a public or private school board,
18 (5) a public or private school student group or
19 organization,
20 (6) a parent-teacher association or organization
21 other than as specified in subparagraph b of this
22 paragraph, or
23 (7) public or private school personnel for purposes
24 of raising funds for the benefit of a public or

1 private school, public school district, public or
2 private school board or public or private school
3 student group or organization, or

- 4 b. Sales of tangible personal property made by or to
5 nonprofit parent-teacher associations or organizations
6 exempt from taxation pursuant to the provisions of the
7 Internal Revenue Code, 26 U.S.C., Section 501(c)(3)
8 and before July 1, 2014, nonprofit local public or
9 private school foundations which solicit money or
10 property in the name of any public or private school
11 or public school district.

12 The exemption provided by this paragraph for sales made by a
13 public or private school shall be limited to those public or private
14 schools accredited by the State Department of Education or
15 registered by the State Board of Education for purposes of
16 participating in federal programs. Sale of tangible personal
17 property in this paragraph shall include sale of admission tickets
18 and concessions at athletic events;

19 14. Sales of tangible personal property by:

- 20 a. local 4-H clubs,
21 b. county, regional or state 4-H councils,
22 c. county, regional or state 4-H committees,
23 d. 4-H leader associations,
24 e. county, regional or state 4-H foundations, and

1 f. authorized 4-H camps and training centers.

2 The exemption provided by this paragraph shall be limited to
3 sales for the purpose of raising funds for the benefit of such
4 organizations. Sale of tangible personal property exempted by this
5 paragraph shall include sale of admission tickets;

6 15. The first Seventy-five Thousand Dollars (\$75,000.00) each
7 year from sale of tickets and concessions at athletic events by each
8 organization exempt from taxation pursuant to the provisions of the
9 Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

10 16. Items or services which are subsequently given away by the
11 Oklahoma Tourism and Recreation Department as promotional items
12 pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and
13 the sale of advertising in travel brochures and other promotional
14 materials produced at the direction of the Department;

15 17. Sales of tangible personal property or services to fire
16 departments organized pursuant to Section 592 of Title 18 of the
17 Oklahoma Statutes which items are to be used for the purposes of the
18 fire department. Any person making purchases on behalf of any such
19 fire department shall certify, in writing, on the copy of the
20 invoice or sales ticket to be retained by the vendor that the
21 purchases are made for and on behalf of such fire department and set
22 out the name of such fire department. Any person who wrongfully or
23 erroneously certifies that the purchases are for any such fire
24 department or who otherwise violates the provisions of this section

1 shall be deemed guilty of a misdemeanor and upon conviction thereof,
2 shall be fined an amount equal to double the amount of sales tax
3 involved or incarcerated for not more than sixty (60) days, or both;

4 18. Complimentary or free tickets for admission to places of
5 amusement, sports, entertainment, exhibition, display or other
6 recreational events or activities which are issued through a box
7 office or other entity which is operated by a state institution of
8 higher education with institutional employees or by a municipality
9 with municipal employees;

10 19. The first Fifteen Thousand Dollars (\$15,000.00) each year
11 from sales of tangible personal property by fire departments
12 organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes
13 for the purposes of raising funds for the benefit of the fire
14 department. Fire departments selling tangible personal property for
15 the purposes of raising funds shall be limited to no more than six
16 (6) days each year to raise such funds in order to receive the
17 exemption granted by this paragraph;

18 20. Sales of tangible personal property or services to any Boys
19 & Girls Clubs of America affiliate in this state which is not
20 affiliated with the Salvation Army and which is exempt from taxation
21 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
22 Section 501(c)(3);

23 21. Sales of tangible personal property or services to any
24 organization, which takes court-adjudicated juveniles for purposes

1 of rehabilitation, and which is exempt from taxation pursuant to the
2 provisions of the Internal Revenue Code, 26 U.S.C., Section
3 501(c)(3), provided that at least fifty percent (50%) of the
4 juveniles served by such organization are court adjudicated and the
5 organization receives state funds in an amount less than ten percent
6 (10%) of the annual budget of the organization;

7 22. Sales of tangible personal property or services to:

8 a. any federally qualified community health center as
9 defined in Section 254c of Title 42 of the United
10 States Code,

11 b. any migrant health center as defined in Section 254b
12 of Title 42 of the United States Code,

13 c. any clinic receiving disbursements of state monies
14 from the Indigent Health Care Revolving Fund pursuant
15 to the provisions of Section 66 of Title 56 of the
16 Oklahoma Statutes,

17 d. any community based health center which meets all of
18 the following criteria:

19 (1) provides primary care services at no cost to the
20 recipient, and

21 (2) is exempt from taxation pursuant to the
22 provisions of Section 501(c)(3) of the Internal
23 Revenue Code, 26 U.S.C., Section 501(c)(3), and
24

1 e. any community mental health center as defined in

2 Section 3-302 of Title 43A of the Oklahoma Statutes;

3 23. Dues or fees, including free or complimentary dues or fees
4 which have a value equivalent to the charge that could have
5 otherwise been made, to YMCAs, YWCAs or municipally-owned recreation
6 centers for the use of facilities and programs;

7 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
8 from sales of tangible personal property or services to or by a
9 cultural organization established to sponsor and promote
10 educational, charitable and cultural events for disadvantaged
11 children, and which organization is exempt from taxation pursuant to
12 the provisions of the Internal Revenue Code, 26 U.S.C., Section
13 501(c)(3);

14 25. Sales of tangible personal property or services to museums
15 or other entities which have been accredited by the American
16 Association of Museums. Any person making purchases on behalf of
17 any such museum or other entity shall certify, in writing, on the
18 copy of the invoice or sales ticket to be retained by the vendor
19 that the purchases are made for and on behalf of such museum or
20 other entity and set out the name of such museum or other entity.
21 Any person who wrongfully or erroneously certifies that the
22 purchases are for any such museum or other entity or who otherwise
23 violates the provisions of this paragraph shall be deemed guilty of
24 a misdemeanor and, upon conviction thereof, shall be fined an amount

1 equal to double the amount of sales tax involved or incarcerated for
2 not more than sixty (60) days, or by both such fine and
3 incarceration;

4 26. Sales of tickets for admission by any museum accredited by
5 the American Association of Museums. In order to be eligible for
6 the exemption provided by this paragraph, an amount equivalent to
7 the amount of the tax which would otherwise be required to be
8 collected pursuant to the provisions of Section 1350 et seq. of this
9 title shall be separately stated on the admission ticket and shall
10 be collected and used for the sole purpose of servicing or aiding in
11 the servicing of debt incurred by the museum to effect the
12 construction, enlarging or renovation of any facility to be used for
13 entertainment, edification or cultural cultivation to which entry is
14 gained with a paid admission ticket;

15 27. Sales of tangible personal property or services occurring
16 on or after June 1, 1995, to children's homes which are supported or
17 sponsored by one or more churches, members of which serve as
18 trustees of the home;

19 28. Sales of tangible personal property or services to the
20 organization known as the Disabled American Veterans, Department of
21 Oklahoma, Inc., and subordinate chapters thereof;

22 29. Sales of tangible personal property or services to youth
23 camps which are supported or sponsored by one or more churches,
24 members of which serve as trustees of the organization;

1 30. Transfer of tangible personal property made pursuant to
2 Section 3226 of Title 63 of the Oklahoma Statutes by the University
3 Hospitals Trust;

4 31. Sales of tangible personal property or services to a
5 municipality, county or school district pursuant to a lease or
6 lease-purchase agreement executed between the vendor and a
7 municipality, county or school district. A copy of the lease or
8 lease-purchase agreement shall be retained by the vendor;

9 32. Sales of tangible personal property or services to any
10 spaceport user, as defined in the Oklahoma Space Industry
11 Development Act;

12 33. The sale, use, storage, consumption, or distribution in
13 this state, whether by the importer, exporter, or another person, of
14 any satellite or any associated launch vehicle, including components
15 of, and parts and motors for, any such satellite or launch vehicle,
16 imported or caused to be imported into this state for the purpose of
17 export by means of launching into space. This exemption provided by
18 this paragraph shall not be affected by:

- 19 a. the destruction in whole or in part of the satellite
- 20 or launch vehicle,
- 21 b. the failure of a launch to occur or be successful, or
- 22 c. the absence of any transfer or title to, or possession
- 23 of, the satellite or launch vehicle after launch;

1 34. The sale, lease, use, storage, consumption, or distribution
2 in this state of any space facility, space propulsion system or
3 space vehicle, satellite, or station of any kind possessing space
4 flight capacity, including components thereof;

5 35. The sale, lease, use, storage, consumption, or distribution
6 in this state of tangible personal property, placed on or used
7 aboard any space facility, space propulsion system or space vehicle,
8 satellite, or station possessing space flight capacity, which is
9 launched into space, irrespective of whether such tangible property
10 is returned to this state for subsequent use, storage, or
11 consumption in any manner;

12 36. The sale, lease, use, storage, consumption, or distribution
13 in this state of tangible personal property meeting the definition
14 of "section 38 property" as defined in Sections 48(a)(1)(A) and
15 (B)(i) of the Internal Revenue Code of 1986, that is an integral
16 part of and used primarily in support of space flight; however,
17 section 38 property used in support of space flight shall not
18 include general office equipment, any boat, mobile home, motor
19 vehicle, or other vehicle of a class or type required to be
20 registered, licensed, titled, or documented in this state or by the
21 United States government, or any other property not specifically
22 suited to supporting space activity. The term "in support of space
23 flight", for purposes of this paragraph, means the altering,
24 monitoring, controlling, regulating, adjusting, servicing, or

1 repairing of any space facility, space propulsion systems or space
2 vehicle, satellite, or station possessing space flight capacity,
3 including the components thereof;

4 37. The purchase or lease of machinery and equipment for use at
5 a fixed location in this state, which is used exclusively in the
6 manufacturing, processing, compounding, or producing of any space
7 facility, space propulsion system or space vehicle, satellite, or
8 station of any kind possessing space flight capacity. Provided, the
9 exemption provided for in this paragraph shall not be allowed unless
10 the purchaser or lessee signs an affidavit stating that the item or
11 items to be exempted are for the exclusive use designated herein.
12 Any person furnishing a false affidavit to the vendor for the
13 purpose of evading payment of any tax imposed by Section 1354 of
14 this title shall be subject to the penalties provided by law. As
15 used in this paragraph, "machinery and equipment" means "section 38
16 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the
17 Internal Revenue Code of 1986, which is used as an integral part of
18 the manufacturing, processing, compounding, or producing of items of
19 tangible personal property. Such term includes parts and
20 accessories only to the extent that the exemption thereof is
21 consistent with the provisions of this paragraph;

22 38. The amount of a surcharge or any other amount which is
23 separately stated on an admission ticket which is imposed, collected
24 and used for the sole purpose of constructing, remodeling or

1 enlarging facilities of a public trust having a municipality or
2 county as its sole beneficiary;

3 39. Sales of tangible personal property or services which are
4 directly used in or for the benefit of a state park in this state,
5 which are made to an organization which is exempt from taxation
6 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
7 Section 501(c)(3) and which is organized primarily for the purpose
8 of supporting one or more state parks located in this state;

9 40. The sale, lease or use of parking privileges by an
10 institution of The Oklahoma State System of Higher Education;

11 41. Sales of tangible personal property or services for use on
12 campus or school construction projects for the benefit of
13 institutions of The Oklahoma State System of Higher Education,
14 private institutions of higher education accredited by the Oklahoma
15 State Regents for Higher Education or any public school or school
16 district when such projects are financed by or through the use of
17 nonprofit entities which are exempt from taxation pursuant to the
18 provisions of the Internal Revenue Code, 26 U.S.C., Section
19 501(c)(3);

20 42. Sales of tangible personal property or services by an
21 organization which is exempt from taxation pursuant to the
22 provisions of the Internal Revenue Code, 26 U.S.C., Section
23 501(c)(3), in the course of conducting a national championship
24 sports event, but only if all or a portion of the payment in

1 exchange therefor would qualify as the receipt of a qualified
2 sponsorship payment described in Internal Revenue Code, 26 U.S.C.,
3 Section 513(i). Sales exempted pursuant to this paragraph shall be
4 exempt from all Oklahoma sales, use, excise and gross receipts
5 taxes;

6 43. Sales of tangible personal property or services to or by an
7 organization which:

8 a. is exempt from taxation pursuant to the provisions of
9 the Internal Revenue Code, 26 U.S.C., Section
10 501(c)(3),

11 b. is affiliated with a comprehensive university within
12 The Oklahoma State System of Higher Education, and

13 c. has been organized primarily for the purpose of
14 providing education and teacher training and
15 conducting events relating to robotics;

16 44. The first Fifteen Thousand Dollars (\$15,000.00) each year
17 from sales of tangible personal property to or by youth athletic
18 teams which are part of an athletic organization exempt from
19 taxation pursuant to the provisions of the Internal Revenue Code, 26
20 U.S.C., Section 501(c)(4), for the purposes of raising funds for the
21 benefit of the team;

22 45. Sales of tickets for admission to a collegiate athletic
23 event that is held in a facility owned or operated by a municipality
24 or a public trust of which the municipality is the sole beneficiary

1 and that actually determines or is part of a tournament or
2 tournament process for determining a conference tournament
3 championship, a conference championship, or a national championship;

4 46. Sales of tangible personal property or services to or by an
5 organization which is exempt from taxation pursuant to the
6 provisions of the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(3) and is operating the Oklahoma City National Memorial and
8 Museum, an affiliate of the National Park System;

9 47. Sales of tangible personal property or services to
10 organizations which are exempt from federal taxation pursuant to the
11 provisions of Section 501(c)(3) of the Internal Revenue Code, 26
12 U.S.C., Section 501(c)(3), the memberships of which are limited to
13 honorably discharged veterans, and which furnish financial support
14 to area veterans' organizations to be used for the purpose of
15 constructing a memorial or museum;

16 48. Sales of tangible personal property or services on or after
17 January 1, 2003, to an organization which is exempt from taxation
18 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
19 Section 501(c)(3) that is expending monies received from a private
20 foundation grant in conjunction with expenditures of local sales tax
21 revenue to construct a local public library;

22 49. Sales of tangible personal property or services to a state
23 that borders this state or any political subdivision of that state,
24 but only to the extent that the other state or political subdivision

1 exempts or does not impose a tax on similar sales of items to this
2 state or a political subdivision of this state;

3 50. Effective July 1, 2005, sales of tangible personal property
4 or services to the Career Technology Student Organizations under the
5 direction and supervision of the Oklahoma Department of Career and
6 Technology Education;

7 51. Sales of tangible personal property to a public trust
8 having either a single city, town or county or multiple cities,
9 towns or counties or combination thereof as beneficiary or
10 beneficiaries or a nonprofit organization which is exempt from
11 taxation pursuant to the provisions of the Internal Revenue Code, 26
12 U.S.C., Section 501(c)(3) for the purpose of constructing
13 improvements to or expanding a hospital or nursing home owned and
14 operated by any such public trust or nonprofit entity prior to the
15 effective date of this act in counties with a population of less
16 than one hundred thousand (100,000) persons, according to the most
17 recent Federal Decennial Census. As used in this paragraph,
18 "constructing improvements to or expanding" shall not mean any
19 expense for routine maintenance or general repairs and shall require
20 a project cost of at least One Hundred Thousand Dollars
21 (\$100,000.00). For purposes of this paragraph, sales made to a
22 contractor or subcontractor that enters into a contractual
23 relationship with a public trust or nonprofit entity as described by
24 this paragraph shall be considered sales made to the public trust or

1 nonprofit entity. The exemption authorized by this paragraph shall
2 be administered in the form of a refund from the sales tax revenues
3 apportioned pursuant to Section 1353 of this title and the vendor
4 shall be required to collect the sales tax otherwise applicable to
5 the transaction. The purchaser may apply for a refund of the sales
6 tax paid in the manner prescribed by this paragraph. Within thirty
7 (30) days after the end of each fiscal year, any purchaser that is
8 entitled to make application for a refund based upon the exempt
9 treatment authorized by this paragraph may file an application for
10 refund of the sales taxes paid during such preceding fiscal year.
11 The Tax Commission shall prescribe a form for purposes of making the
12 application for refund. The Tax Commission shall determine whether
13 or not the total amount of sales tax exemptions claimed by all
14 purchasers is equal to or less than Six Hundred Fifty Thousand
15 Dollars (\$650,000.00). If such claims are less than or equal to
16 that amount, the Tax Commission shall make refunds to the purchasers
17 in the full amount of the documented and verified sales tax amounts.
18 If such claims by all purchasers are in excess of Six Hundred Fifty
19 Thousand Dollars (\$650,000.00), the Tax Commission shall determine
20 the amount of each purchaser's claim, the total amount of all claims
21 by all purchasers, and the percentage each purchaser's claim amount
22 bears to the total. The resulting percentage determined for each
23 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars
24 (\$650,000.00) to determine the amount of refundable sales tax to be

1 paid to each purchaser. The pro rata refund amount shall be the
2 only method to recover sales taxes paid during the preceding fiscal
3 year and no balance of any sales taxes paid on a pro rata basis
4 shall be the subject of any subsequent refund claim pursuant to this
5 paragraph;

6 52. Effective July 1, 2006, sales of tangible personal property
7 or services to any organization which assists, trains, educates, and
8 provides housing for physically and mentally handicapped persons and
9 which is exempt from taxation pursuant to the provisions of the
10 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that
11 receives at least eighty-five percent (85%) of its annual budget
12 from state or federal funds. In order to receive the benefit of the
13 exemption authorized by this paragraph, the taxpayer shall be
14 required to make payment of the applicable sales tax at the time of
15 sale to the vendor in the manner otherwise required by law.
16 Notwithstanding any other provision of the Oklahoma Uniform Tax
17 Procedure Code to the contrary, the taxpayer shall be authorized to
18 file a claim for refund of sales taxes paid that qualify for the
19 exemption authorized by this paragraph for a period of one (1) year
20 after the date of the sale transaction. The taxpayer shall be
21 required to provide documentation as may be prescribed by the
22 Oklahoma Tax Commission in support of the refund claim. The total
23 amount of sales tax qualifying for exempt treatment pursuant to this
24 paragraph shall not exceed One Hundred Seventy-five Thousand Dollars

1 (\$175,000.00) each fiscal year. Claims for refund shall be
2 processed in the order in which such claims are received by the
3 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds
4 the total amount of refunds payable for a fiscal year, such claim
5 shall be barred;

6 53. The first Two Thousand Dollars (\$2,000.00) each year of
7 sales of tangible personal property or services to, by, or for the
8 benefit of a qualified neighborhood watch organization that is
9 endorsed or supported by or working directly with a law enforcement
10 agency with jurisdiction in the area in which the neighborhood watch
11 organization is located. As used in this paragraph, "qualified
12 neighborhood watch organization" means an organization that is a
13 not-for-profit corporation under the laws of the State of Oklahoma
14 that was created to help prevent criminal activity in an area
15 through community involvement and interaction with local law
16 enforcement and which is one of the first two thousand organizations
17 which makes application to the Oklahoma Tax Commission for the
18 exemption after the effective date of this act;

19 54. Sales of tangible personal property to a nonprofit
20 organization, exempt from taxation pursuant to the provisions of the
21 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized
22 primarily for the purpose of providing services to homeless persons
23 during the day and located in a metropolitan area with a population
24 in excess of five hundred thousand (500,000) persons according to

1 the latest Federal Decennial Census. The exemption authorized by
2 this paragraph shall be applicable to sales of tangible personal
3 property to a qualified entity occurring on or after January 1,
4 2005;

5 55. Sales of tangible personal property or services by an
6 organization which is exempt from taxation pursuant to the
7 provisions of the Internal Revenue Code, 26 U.S.C., Section
8 501(c)(3) made during auction events the principal purpose of which
9 is to provide funding for the preservation of wetlands and habitat
10 for wild ducks;

11 56. Sales of tangible personal property or services by an
12 organization which is exempt from taxation pursuant to the
13 provisions of the Internal Revenue Code, 26 U.S.C., Section
14 501(c)(3) made during auction events the principal purpose of which
15 is to provide funding for the preservation and conservation of wild
16 turkeys;

17 57. Sales of tangible personal property or services to an
18 organization which:

19 a. is exempt from taxation pursuant to the provisions of
20 the Internal Revenue Code, 26 U.S.C., Section
21 501(c)(3), and

22 b. is part of a network of community-based, autonomous
23 member organizations that meets the following
24 criteria:

- 1 (1) serves people with workplace disadvantages and
2 disabilities by providing job training and
3 employment services, as well as job placement
4 opportunities and post-employment support,
- 5 (2) has locations in the United States and at least
6 twenty other countries,
- 7 (3) collects donated clothing and household goods to
8 sell in retail stores and provides contract labor
9 services to business and government, and
- 10 (4) provides documentation to the Oklahoma Tax
11 Commission that over seventy-five percent (75%)
12 of its revenues are channeled into employment,
13 job training and placement programs and other
14 critical community services;

15 58. Sales of tickets made on or after September 21, 2005, and
16 complimentary or free tickets for admission issued on or after
17 September 21, 2005, which have a value equivalent to the charge that
18 would have otherwise been made, for admission to a professional
19 athletic event in which a team in the National Basketball
20 Association is a participant, which is held in a facility owned or
21 operated by a municipality, a county or a public trust of which a
22 municipality or a county is the sole beneficiary, and sales of
23 tickets made on or after the effective date of this act, and
24 complimentary or free tickets for admission issued on or after the

1 effective date of this act, which have a value equivalent to the
2 charge that would have otherwise been made, for admission to a
3 professional athletic event in which a team in the National Hockey
4 League is a participant, which is held in a facility owned or
5 operated by a municipality, a county or a public trust of which a
6 municipality or a county is the sole beneficiary;

7 59. Sales of tickets for admission and complimentary or free
8 tickets for admission which have a value equivalent to the charge
9 that would have otherwise been made to a professional sporting event
10 involving ice hockey, baseball, basketball, football or arena
11 football, or soccer. As used in this paragraph, "professional
12 sporting event" means an organized athletic competition between
13 teams that are members of an organized league or association with
14 centralized management, other than a national league or national
15 association, that imposes requirements for participation in the
16 league upon the teams, the individual athletes or both, and which
17 uses a salary structure to compensate the athletes;

18 60. Sales of tickets for admission to an annual event sponsored
19 by an educational and charitable organization of women which is
20 exempt from taxation pursuant to the provisions of the Internal
21 Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its mission
22 promoting volunteerism, developing the potential of women and
23 improving the community through the effective action and leadership
24 of trained volunteers;

1 61. Sales of tangible personal property or services to an
2 organization, which is exempt from taxation pursuant to the
3 provisions of the Internal Revenue Code, 26 U.S.C., Section
4 501(c)(3), and which is itself a member of an organization which is
5 exempt from taxation pursuant to the provisions of the Internal
6 Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership
7 organization is primarily engaged in advancing the purposes of its
8 member organizations through fundraising, public awareness or other
9 efforts for the benefit of its member organizations, and if the
10 member organization is primarily engaged either in providing
11 educational services and programs concerning health-related diseases
12 and conditions to individuals suffering from such health-related
13 diseases and conditions or their caregivers and family members or
14 support to such individuals, or in health-related research as to
15 such diseases and conditions, or both. In order to qualify for the
16 exemption authorized by this paragraph, the member nonprofit
17 organization shall be required to provide proof to the Oklahoma Tax
18 Commission of its membership status in the membership organization;

19 62. Sales of tangible personal property or services to or by an
20 organization which is part of a national volunteer women's service
21 organization dedicated to promoting patriotism, preserving American
22 history and securing better education for children and which has at
23 least 168,000 members in 3,000 chapters across the United States;

24

1 63. Sales of tangible personal property or services to or by a
2 YWCA or YMCA organization which is part of a national nonprofit
3 community service organization working to meet the health and social
4 service needs of its members across the United States;

5 64. Sales of tangible personal property or services to or by a
6 veteran's organization which is exempt from taxation pursuant to the
7 provisions of the Internal Revenue Code, 26 U.S.C., Section 501
8 (c)(19) and which is known as the Veterans of Foreign Wars of the
9 United States, Oklahoma Chapters;

10 65. Sales of boxes of food by a church or by an organization,
11 which is exempt from taxation pursuant to the provisions of the
12 Internal Revenue Code, 26 U.S.C., Section 501(c)(3). To qualify
13 under the provisions of this paragraph, the organization must be
14 organized for the primary purpose of feeding needy individuals or to
15 encourage volunteer service by requiring such service in order to
16 purchase food. These boxes shall only contain edible staple food
17 items;

18 66. Sales of tangible personal property or services to any
19 person with whom a church has duly entered into a construction
20 contract, necessary for carrying out such contract or to any
21 subcontractor to such a construction contract;

22 67. Sales of tangible personal property or services used
23 exclusively for charitable or educational purposes, to or by an
24 organization which:

- 1 a. is exempt from taxation pursuant to the provisions of
2 the Internal Revenue Code, 26 U.S.C., Section
3 501(c)(3),
- 4 b. has filed a Not-for-Profit Certificate of
5 Incorporation in this state, and
- 6 c. is organized for the purpose of:
- 7 (1) providing training and education to
8 developmentally disabled individuals,
- 9 (2) educating the community about the rights,
10 abilities and strengths of developmentally
11 disabled individuals, and
- 12 (3) promoting unity among developmentally disabled
13 individuals in their community and geographic
14 area;

15 68. Sales of tangible personal property or services to any
16 organization which is a shelter for abused, neglected, or abandoned
17 children and which is exempt from taxation pursuant to the
18 provisions of the Internal Revenue Code, 26 U.S.C., Section
19 501(c)(3); provided, until July 1, 2008, such exemption shall apply
20 only to eligible shelters for children from birth to age twelve (12)
21 and after July 1, 2008, such exemption shall apply to eligible
22 shelters for children from birth to age eighteen (18);

1 69. Sales of tangible personal property or services to a child
2 care center which is licensed pursuant to the Oklahoma Child Care
3 Facilities Licensing Act and which:

- 4 a. possesses a 3-star rating from the Department of Human
5 Services Reaching for the Stars Program or a national
6 accreditation, and
- 7 b. allows on site universal pre-kindergarten education to
8 be provided to four-year-old children through a
9 contractual agreement with any public school or school
10 district.

11 For the purposes of this paragraph, sales made to any person,
12 firm, agency or entity that has entered previously into a
13 contractual relationship with a child care center for construction
14 and improvement of buildings and other structures owned by the child
15 care center and operated for educational purposes shall be
16 considered sales made to a child care center. Any such person,
17 firm, agency or entity making purchases on behalf of a child care
18 center shall certify in writing, on the copy of the invoice or sales
19 ticket the nature of the purchase. Any such person, or person
20 acting on behalf of a firm, agency or entity making purchases on
21 behalf of a child care center in violation of this paragraph shall
22 be guilty of a misdemeanor and upon conviction thereof shall be
23 fined an amount equal to double the amount of sales tax involved or
24 incarcerated for not more than sixty (60) days or both; ~~and~~

1 70. a. Sales of tangible personal property to a service
2 organization of mothers who have children who are
3 serving or who have served in the military, which
4 service organization is exempt from taxation pursuant
5 to the provisions of the Internal Revenue Code, 26
6 U.S.C., Section 501(c)(19) and which is known as the
7 Blue Star Mothers of America, Inc. The exemption
8 provided by this paragraph shall only apply to the
9 purchase of tangible personal property actually sent
10 to United States military personnel overseas who are
11 serving in a combat zone and not to any other tangible
12 personal property purchased by the organization.
13 Provided, this exemption shall not apply to any sales
14 tax levied by a city, town, county, or any other
15 jurisdiction in this state.

16 b. The exemption authorized by this paragraph shall be
17 administered in the form of a refund from the sales
18 tax revenues apportioned pursuant to Section 1353 of
19 this title, and the vendor shall be required to
20 collect the sales tax otherwise applicable to the
21 transaction. The purchaser may apply for a refund of
22 the state sales tax paid in the manner prescribed by
23 this paragraph. Within sixty (60) days after the end
24 of each calendar quarter, any purchaser that is

1 entitled to make application for a refund based upon
2 the exempt treatment authorized by this paragraph may
3 file an application for refund of the state sales
4 taxes paid during such preceding calendar quarter.

5 The Tax Commission shall prescribe a form for purposes
6 of making the application for refund.

7 c. A purchaser who applies for a refund pursuant to this
8 paragraph shall certify that the items were actually
9 sent to military personnel overseas in a combat zone.
10 Any purchaser that applies for a refund for the
11 purchase of items that are not authorized for
12 exemption under this paragraph shall be subject to a
13 penalty in the amount of Five Hundred Dollars
14 (\$500.00).

15 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1357, as
16 last amended by Section 1, Chapter 253, O.S.L. 2007 (68 O.S. Supp.
17 2007, Section 1357), is amended to read as follows:

18 Section 1357. Exemptions - General.

19 There are hereby specifically exempted from the tax levied by
20 the Oklahoma Sales Tax Code:

21 1. Transportation of school pupils to and from elementary
22 schools or high schools in motor or other vehicles;

1 2. Transportation of persons where the fare of each person does
2 not exceed One Dollar (\$1.00), or local transportation of persons
3 within the corporate limits of a municipality except by taxicabs;

4 3. Sales for resale to persons engaged in the business of
5 reselling the articles purchased, whether within or without the
6 state, provided that such sales to residents of this state are made
7 to persons to whom sales tax permits have been issued as provided in
8 the Oklahoma Sales Tax Code. This exemption shall not apply to the
9 sales of articles made to persons holding permits when such persons
10 purchase items for their use and which they are not regularly
11 engaged in the business of reselling; neither shall this exemption
12 apply to sales of tangible personal property to peddlers, solicitors
13 and other salespersons who do not have an established place of
14 business and a sales tax permit. The exemption provided by this
15 paragraph shall apply to sales of motor fuel or diesel fuel to a
16 Group Five vendor, but the use of such motor fuel or diesel fuel by
17 the Group Five vendor shall not be exempt from the tax levied by the
18 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
19 is exempt from sales tax when the motor fuel is for shipment outside
20 this state and consumed by a common carrier by rail in the conduct
21 of its business. The sales tax shall apply to the purchase of motor
22 fuel or diesel fuel in Oklahoma by a common carrier by rail when
23 such motor fuel is purchased for fueling, within this state, of any
24 locomotive or other motorized flanged wheel equipment;

1 4. Sales of advertising space in newspapers and periodicals;

2 5. Sales of programs relating to sporting and entertainment
3 events, and sales of advertising on billboards (including signage,
4 posters, panels, marquees, or on other similar surfaces, whether
5 indoors or outdoors) or in programs relating to sporting and
6 entertainment events, and sales of any advertising, to be displayed
7 at or in connection with a sporting event, via the Internet,
8 electronic display devices, or through public address or broadcast
9 systems. The exemption authorized by this paragraph shall be
10 effective for all sales made on or after January 1, 2001;

11 6. Sales of any advertising, other than the advertising
12 described by paragraph 5 of this section, via the Internet,
13 electronic display devices, or through the electronic media,
14 including radio, public address or broadcast systems, television
15 (whether through closed circuit broadcasting systems or otherwise),
16 and cable and satellite television, and the servicing of any
17 advertising devices;

18 7. Eggs, feed, supplies, machinery and equipment purchased by
19 persons regularly engaged in the business of raising worms, fish,
20 any insect or any other form of terrestrial or aquatic animal life
21 and used for the purpose of raising same for marketing. This
22 exemption shall only be granted and extended to the purchaser when
23 the items are to be used and in fact are used in the raising of
24 animal life as set out above. Each purchaser shall certify, in

1 writing, on the invoice or sales ticket retained by the vendor that
2 the purchaser is regularly engaged in the business of raising such
3 animal life and that the items purchased will be used only in such
4 business. The vendor shall certify to the Oklahoma Tax Commission
5 that the price of the items has been reduced to grant the full
6 benefit of the exemption. Violation hereof by the purchaser or
7 vendor shall be a misdemeanor;

8 8. Sale of natural or artificial gas and electricity, and
9 associated delivery or transmission services, when sold exclusively
10 for residential use. Provided, this exemption shall not apply to
11 any sales tax levied by a city or town, or a county, or any other
12 jurisdiction in this state;

13 9. In addition to the exemptions authorized by Section 1357.6
14 of this title, sales of drugs sold pursuant to a prescription
15 written for the treatment of human beings by a person licensed to
16 prescribe the drugs, and sales of insulin and medical oxygen.
17 Provided, this exemption shall not apply to over-the-counter drugs;

18 10. Transfers of title or possession of empty, partially
19 filled, or filled returnable oil and chemical drums to any person
20 who is not regularly engaged in the business of selling, reselling
21 or otherwise transferring empty, partially filled, or filled
22 returnable oil drums;

23

24

1 11. Sales of one-way utensils, paper napkins, paper cups,
2 disposable hot containers and other one-way carry out materials to a
3 vendor of meals or beverages;

4 12. Sales of food or food products for home consumption which
5 are purchased in whole or in part with coupons issued pursuant to
6 the federal food stamp program as authorized by Sections 2011
7 through 2029 of Title 7 of the United States Code, as to that
8 portion purchased with such coupons. The exemption provided for
9 such sales shall be inapplicable to such sales upon the effective
10 date of any federal law that removes the requirement of the
11 exemption as a condition for participation by the state in the
12 federal food stamp program;

13 13. Sales of food or food products, or any equipment or
14 supplies used in the preparation of the food or food products to or
15 by an organization which:

- 16 a. is exempt from taxation pursuant to the provisions of
17 Section 501(c)(3) of the Internal Revenue Code, 26
18 U.S.C., Section 501(c)(3), and which provides and
19 delivers prepared meals for home consumption to
20 elderly or homebound persons as part of a program
21 commonly known as "Meals on Wheels" or "Mobile Meals",
22 or
23 b. is exempt from taxation pursuant to the provisions of
24 Section 501(c)(3) of the Internal Revenue Code, 26

1 U.S.C., Section 501(c)(3), and which receives federal
2 funding pursuant to the Older Americans Act of 1965,
3 as amended, for the purpose of providing nutrition
4 programs for the care and benefit of elderly persons;

5 14. a. Sales of tangible personal property or services to or
6 by organizations which are exempt from taxation
7 pursuant to the provisions of Section 501(c)(3) of the
8 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
9 and:

10 (1) are primarily involved in the collection and
11 distribution of food and other household products
12 to other organizations that facilitate the
13 distribution of such products to the needy and
14 such distributee organizations are exempt from
15 taxation pursuant to the provisions of Section
16 501(c)(3) of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3), or

18 (2) facilitate the distribution of such products to
19 the needy.

20 b. Sales made in the course of business for profit or
21 savings, competing with other persons engaged in the
22 same or similar business shall not be exempt under
23 this paragraph;
24

1 15. Sales of tangible personal property or services to
2 children's homes which are located on church-owned property and are
3 operated by organizations exempt from taxation pursuant to the
4 provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(3);

6 16. Sales of computers, data processing equipment, related
7 peripherals and telephone, telegraph or telecommunications service
8 and equipment for use in a qualified aircraft maintenance or
9 manufacturing facility. For purposes of this paragraph, "qualified
10 aircraft maintenance or manufacturing facility" means a new or
11 expanding facility primarily engaged in aircraft repair, building or
12 rebuilding whether or not on a factory basis, whose total cost of
13 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
14 and which employs at least two hundred fifty (250) new full-time-
15 equivalent employees, as certified by the Oklahoma Employment
16 Security Commission, upon completion of the facility. In order to
17 qualify for the exemption provided for by this paragraph, the cost
18 of the items purchased by the qualified aircraft maintenance or
19 manufacturing facility shall equal or exceed the sum of Two Million
20 Dollars (\$2,000,000.00);

21 17. Sales of tangible personal property consumed or
22 incorporated in the construction or expansion of a qualified
23 aircraft maintenance or manufacturing facility as defined in
24 paragraph 16 of this section. For purposes of this paragraph, sales

1 made to a contractor or subcontractor that has previously entered
2 into a contractual relationship with a qualified aircraft
3 maintenance or manufacturing facility for construction or expansion
4 of such a facility shall be considered sales made to a qualified
5 aircraft maintenance or manufacturing facility;

6 18. Sales of the following telecommunications services:

7 a. Interstate and International "800 service". "800
8 service" means a "telecommunications service" that
9 allows a caller to dial a toll-free number without
10 incurring a charge for the call. The service is
11 typically marketed under the name "800", "855", "866",
12 "877", and "888" toll-free calling, and any subsequent
13 numbers designated by the Federal Communications
14 Commission, or

15 b. Interstate and International "900 service". "900
16 service" means an inbound toll "telecommunications
17 service" purchased by a subscriber that allows the
18 subscriber's customers to call in to the subscriber's
19 prerecorded announcement or live service. "900
20 service" does not include the charge for: collection
21 services provided by the seller of the
22 "telecommunications services" to the subscriber, or
23 service or product sold by the subscriber to the
24 subscriber's customer. The service is typically

1 marketed under the name "900" service, and any
2 subsequent numbers designated by the Federal
3 Communications Commission,

4 c. Interstate and International "private communications
5 service". "Private communications service" means a
6 "telecommunications service" that entitles the
7 customer to exclusive or priority use of a
8 communications channel or group of channels between or
9 among termination points, regardless of the manner in
10 which such channel or channels are connected, and
11 includes switching capacity, extension lines,
12 stations, and any other associated services that are
13 provided in connection with the use of such channel or
14 channels,

15 d. "Value-added nonvoice data service". "Value-added
16 nonvoice data service" means a service that otherwise
17 meets the definition of "telecommunications services"
18 in which computer processing applications are used to
19 act on the form, content, code, or protocol of the
20 information or data primarily for a purpose other than
21 transmission, conveyance or routing,

22 e. Interstate and International telecommunications
23 service which is:
24

1 (1) rendered by a company for private use within its
2 organization, or

3 (2) used, allocated, or distributed by a company to
4 its affiliated group,

5 f. Regulatory assessments and charges, including charges
6 to fund the Oklahoma Universal Service Fund, the
7 Oklahoma Lifeline Fund and the Oklahoma High Cost
8 Fund, and

9 g. Telecommunications nonrecurring charges, including but
10 not limited to the installation, connection, change or
11 initiation of telecommunications services which are
12 not associated with a retail consumer sale;

13 19. Sales of railroad track spikes manufactured and sold for
14 use in this state in the construction or repair of railroad tracks,
15 switches, sidings and turnouts;

16 20. Sales of aircraft and aircraft parts provided such sales
17 occur at a qualified aircraft maintenance facility. As used in this
18 paragraph, "qualified aircraft maintenance facility" means a
19 facility operated by an air common carrier at which there were
20 employed at least two thousand (2,000) full-time-equivalent
21 employees in the preceding year as certified by the Oklahoma
22 Employment Security Commission and which is primarily related to the
23 fabrication, repair, alteration, modification, refurbishing,
24 maintenance, building or rebuilding of commercial aircraft or

1 aircraft parts used in air common carriage. For purposes of this
2 paragraph, "air common carrier" shall also include members of an
3 affiliated group as defined by Section 1504 of the Internal Revenue
4 Code, 26 U.S.C., Section 1504;

5 21. Sales of machinery and equipment purchased and used by
6 persons and establishments primarily engaged in computer services
7 and data processing:

8 a. as defined under Industrial Group Numbers 7372 and
9 7373 of the Standard Industrial Classification (SIC)
10 Manual, latest version, which derive at least fifty
11 percent (50%) of their annual gross revenues from the
12 sale of a product or service to an out-of-state buyer
13 or consumer, and

14 b. as defined under Industrial Group Number 7374 of the
15 SIC Manual, latest version, which derive at least
16 eighty percent (80%) of their annual gross revenues
17 from the sale of a product or service to an out-of-
18 state buyer or consumer.

19 Eligibility for the exemption set out in this paragraph shall be
20 established, subject to review by the Tax Commission, by annually
21 filing an affidavit with the Tax Commission stating that the
22 facility so qualifies and such information as required by the Tax
23 Commission. For purposes of determining whether annual gross
24 revenues are derived from sales to out-of-state buyers or consumers,

1 all sales to the federal government shall be considered to be to an
2 out-of-state buyer or consumer;

3 22. Sales of prosthetic devices to an individual for use by
4 such individual. For purposes of this paragraph, "prosthetic
5 device" shall have the same meaning as provided in Section 1357.6 of
6 this title, but shall not include corrective eye glasses, contact
7 lenses or hearing aids;

8 23. Sales of tangible personal property or services to a motion
9 picture or television production company to be used or consumed in
10 connection with an eligible production. For purposes of this
11 paragraph, "eligible production" means a documentary, special, music
12 video, or a television commercial or television program that will
13 serve as a pilot for or be a segment of an ongoing dramatic or
14 situation comedy series filmed or taped for network or national or
15 regional syndication or a feature-length motion picture intended for
16 theatrical release or for network or national or regional
17 syndication or broadcast. The provisions of this paragraph shall
18 apply to sales occurring on or after July 1, 1996. In order to
19 qualify for the exemption, the motion picture or television
20 production company shall file any documentation and information
21 required to be submitted pursuant to rules promulgated by the Tax
22 Commission;

23 24. Sales of diesel fuel sold for consumption by commercial
24 vessels, barges and other commercial watercraft;

1 25. Sales of tangible personal property or services to tax-
2 exempt independent nonprofit biomedical research foundations that
3 provide educational programs for Oklahoma science students and
4 teachers and to tax-exempt independent nonprofit community blood
5 banks headquartered in this state;

6 26. Effective May 6, 1992, sales of wireless telecommunications
7 equipment to a vendor who subsequently transfers the equipment at no
8 charge or for a discounted charge to a consumer as part of a
9 promotional package or as an inducement to commence or continue a
10 contract for wireless telecommunications services;

11 27. Effective January 1, 1991, leases of rail transportation
12 cars to haul coal to coal-fired plants located in this state which
13 generate electric power;

14 28. Beginning July 1, 2005, sales of aircraft engine repairs,
15 modification, and replacement parts, sales of aircraft frame repairs
16 and modification, aircraft interior modification, and paint, and
17 sales of services employed in the repair, modification and
18 replacement of parts of aircraft engines, aircraft frame and
19 interior repair and modification, and paint;

20 29. Sales of materials and supplies to the owner or operator of
21 a ship, motor vessel or barge that is used in interstate or
22 international commerce if the materials and supplies:
23
24

1 a. are loaded on the ship, motor vessel or barge and used
2 in the maintenance and operation of the ship, motor
3 vessel or barge, or

4 b. enter into and become component parts of the ship,
5 motor vessel or barge;

6 30. Sales of tangible personal property made at estate sales at
7 which such property is offered for sale on the premises of the
8 former residence of the decedent by a person who is not required to
9 be licensed pursuant to the Transient Merchant Licensing Act, or who
10 is not otherwise required to obtain a sales tax permit for the sale
11 of such property pursuant to the provisions of Section 1364 of this
12 title; provided:

13 a. such sale or event may not be held for a period
14 exceeding three (3) consecutive days,

15 b. the sale must be conducted within six (6) months of
16 the date of death of the decedent, and

17 c. the exemption allowed by this paragraph shall not be
18 allowed for property that was not part of the
19 decedent's estate;

20 31. Beginning January 1, 2004, sales of electricity and
21 associated delivery and transmission services, when sold exclusively
22 for use by an oil and gas operator for reservoir dewatering projects
23 and associated operations commencing on or after July 1, 2003, in
24 which the initial water-to-oil ratio is greater than or equal to

1 five-to-one water-to-oil, and such oil and gas development projects
2 have been classified by the Corporation Commission as a reservoir
3 dewatering unit;

4 32. Sales of prewritten computer software that is delivered
5 electronically. For purposes of this paragraph, "delivered
6 electronically" means delivered to the purchaser by means other than
7 tangible storage media;

8 33. Sales of modular dwelling units when built at a production
9 facility and moved in whole or in parts, to be assembled on-site,
10 and permanently affixed to the real property and used for
11 residential or commercial purposes. The exemption provided by this
12 paragraph shall equal forty-five percent (45%) of the total sales
13 price of the modular dwelling unit. For purposes of this paragraph,
14 "modular dwelling unit" means a structure that is not subject to the
15 motor vehicle excise tax imposed pursuant to Section 2103 of this
16 title;

17 34. Sales of tangible personal property or services to persons
18 who are residents of Oklahoma and have been honorably discharged
19 from active service in any branch of the Armed Forces of the United
20 States or Oklahoma National Guard and who have been certified by the
21 United States Department of Veterans Affairs or its successor to be
22 in receipt of disability compensation at the one-hundred-percent
23 rate and the disability shall be permanent and have been sustained
24 through military action or accident or resulting from disease

1 contracted while in such active service; provided, sales for the
2 benefit of the person to a spouse of the eligible person or to a
3 member of the household in which the eligible person resides and who
4 is authorized to make purchases on the person's behalf, when such
5 eligible person is not present at the sale, shall also be exempt for
6 purposes of this paragraph. Sales qualifying for the exemption
7 authorized by this paragraph shall not exceed Twenty-five Thousand
8 Dollars (\$25,000.00) per year per individual. Upon request of the
9 Tax Commission, a person asserting or claiming the exemption
10 authorized by this paragraph shall provide a statement, executed
11 under oath, that the total sales amounts for which the exemption is
12 applicable have not exceeded Twenty-five Thousand Dollars
13 (\$25,000.00) per year. If the amount of such exempt sales exceeds
14 such amount, the sales tax in excess of the authorized amount shall
15 be treated as a direct sales tax liability and may be recovered by
16 the Tax Commission in the same manner provided by law for other
17 taxes, including penalty and interest;

18 35. Sales of electricity to the operator, specifically
19 designated by the Oklahoma Corporation Commission, of a spacing unit
20 or lease from which oil is produced or attempted to be produced
21 using enhanced recovery methods, including, but not limited to,
22 increased pressure in a producing formation through the use of water
23 or saltwater if the electrical usage is associated with and
24 necessary for the operation of equipment required to inject or

1 circulate fluids in a producing formation for the purpose of forcing
2 oil or petroleum into a wellbore for eventual recovery and
3 production from the wellhead. In order to be eligible for the sales
4 tax exemption authorized by this paragraph, the total content of oil
5 recovered after the use of enhanced recovery methods shall not
6 exceed one percent (1%) by volume. The exemption authorized by this
7 paragraph shall be applicable only to the state sales tax rate and
8 shall not be applicable to any county or municipal sales tax rate;

9 36. Sales of intrastate charter and tour bus transportation.
10 As used in this paragraph, "intrastate charter and tour bus
11 transportation" means the transportation of persons from one
12 location in this state to another location in this state in a motor
13 vehicle which has been constructed in such a manner that it may
14 lawfully carry more than eighteen persons, and which is ordinarily
15 used or rented to carry persons for compensation. Provided, this
16 exemption shall not apply to regularly scheduled bus transportation
17 for the general public;

18 37. Sales of vitamins, minerals and dietary supplements by a
19 licensed chiropractor to a person who is the patient of such
20 chiropractor at the physical location where the chiropractor
21 provides chiropractic care or services to such patient. The
22 provisions of this paragraph shall not be applicable to any drug,
23 medicine or substance for which a prescription by a licensed
24 physician is required;

1 38. Sales of goods, wares, merchandise, tangible personal
2 property, machinery and equipment to a web search portal located in
3 this state which derives at least eighty percent (80%) of its annual
4 gross revenue from the sale of a product or service to an out-of-
5 state buyer or consumer. For purposes of this paragraph, "web
6 search portal" means an establishment classified under NAICS code
7 518112 which operates web sites that use a search engine to generate
8 and maintain extensive databases of Internet addresses and content
9 in an easily searchable format;

10 39. Sales of tangible personal property consumed or
11 incorporated in the construction or expansion of a facility for a
12 corporation organized under Section 437 et seq. of Title 18 of the
13 Oklahoma Statutes as a rural electric cooperative. For purposes of
14 this paragraph, sales made to a contractor or subcontractor that has
15 previously entered into a contractual relationship with a rural
16 electric cooperative for construction or expansion of a facility
17 shall be considered sales made to a rural electric cooperative; and

18 40. Sales of tangible personal property or services to a
19 business primarily engaged in the repair of consumer electronic
20 goods, including, but not limited to, cell phones, compact disc
21 players, personal computers, MP3 players, digital devices for the
22 storage and retrieval of information through hard-wired or wireless
23 computer or Internet connections, if the devices are sold to the
24 business by the original manufacturer of such devices and the

1 devices are repaired, refitted or refurbished for sale by the entity
2 qualifying for the exemption authorized by this paragraph directly
3 to retail consumers or if the devices are sold to another business
4 entity for sale to retail consumers; and

5 41. Before July 1, 2014, sales of rolling stock when sold or
6 leased by the manufacturer, regardless of whether the purchaser is a
7 public services corporation engaged in business as a common carrier
8 of property or passengers by railway, for use or consumption by a
9 common carrier directly in the rendition of public service. For
10 purposes of this paragraph, "rolling stock" means locomotives,
11 autocars and railroad cars.

12 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2357.41, as
13 last amended by Section 15, Chapter 272, O.S.L. 2006 (68 O.S. Supp.
14 2007, Section 2357.41), is amended to read as follows:

15 Section 2357.41 A. For tax years beginning after December 31,
16 2000, there shall be allowed a credit against the tax imposed by
17 Sections 2355 and 2370 of this title or that portion of the tax
18 imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes
19 that would otherwise have been apportioned to the General Revenue
20 Fund for qualified rehabilitation expenditures incurred in
21 connection with any certified historic hotel or historic newspaper
22 plant building located in an increment or incentive district created
23 pursuant to the Local Development Act or for qualified

24

1 rehabilitation expenditures incurred after January 1, 2006, in
2 connection with any certified historic structure.

3 B. The amount of the credit shall be one hundred percent (100%)
4 of the federal rehabilitation credit provided for in Section 47 of
5 Title 26 of the United States Code. The credit authorized by this
6 section may be claimed at any time after the relevant local
7 governmental body responsible for doing so issues a certificate of
8 occupancy or other document that is a precondition for the
9 applicable use of the building or structure that is the basis upon
10 which the credit authorized by this section is claimed.

11 C. All requirements with respect to qualification for the
12 credit authorized by Section 47 of Title 26 of the United States
13 Code shall be applicable to the credit authorized by this section.

14 D. If the credit allowed pursuant to this section exceeds the
15 amount of income taxes due or if there are no state income taxes due
16 on the income of the taxpayer, the amount of the credit allowed but
17 not used in any taxable year may be carried forward as a credit
18 against subsequent income tax liability for a period not exceeding
19 ten (10) years following the qualified expenditures.

20 E. All rehabilitation work to which the credit may be applied
21 shall be reviewed by the State Historic Preservation Office which
22 will in turn forward the information to the National Park Service
23 for certification in accordance with 36 C.F.R., Part 67. A
24 certified historic structure may be rehabilitated for any lawful use

1 or uses, including without limitation mixed uses and still retain
2 eligibility for the credit provided for in this section.

3 F. The amount of the credit allowed for any credit claimed for
4 a certified historic hotel or historic newspaper plant building or
5 any certified historic structure, but not used, shall be freely
6 transferable, in whole or in part, to subsequent transferees at any
7 time during the five (5) years following the year of qualification.
8 Any person to whom or to which a tax credit is transferred shall
9 have only such rights to claim and use the credit under the terms
10 that would have applied to the entity by whom or by which the tax
11 credit was transferred. The provisions of this subsection shall not
12 limit the ability of a tax credit transferee to reduce the tax
13 liability of the transferee regardless of the actual tax liability
14 of the tax credit transferor for the relevant taxable period. The
15 transferor ~~originally allowed~~ of the credit and the ~~subsequent~~
16 transferee shall jointly file a copy of the written credit transfer
17 agreement with the Oklahoma Tax Commission within thirty (30) days
18 of the transfer. Such filing of the written credit transfer
19 agreement with the Oklahoma Tax Commission shall perfect such
20 transfer. The written agreement shall contain the name, address and
21 taxpayer identification number of the parties to the transfer, the
22 amount of credit being transferred, the year the credit was
23 originally allowed to the transferor ~~and,~~ the tax year or years for
24 which the credit may be claimed, and a representation by the

1 transferor that the transferor has neither claimed for its own
2 benefit nor conveyed such credits to any other transferee. The Tax
3 Commission shall develop a standard form for use by subsequent
4 transferees of the credit demonstrating eligibility for the
5 transferee to reduce its applicable tax liabilities resulting from
6 ownership of the credit. The Tax Commission shall develop a system
7 to record and track the transfers of the credit and certify the
8 ownership of the credit and may promulgate rules to permit
9 verification of the validity and timeliness of a tax credit claimed
10 upon a tax return pursuant to this subsection but shall not
11 promulgate any rules which unduly restrict or hinder the transfers
12 of such tax credit.

13 G. Notwithstanding any other provisions in this section, on or
14 after January 1, 2009, if a credit allowed pursuant to this section
15 which has been transferred is subsequently reduced as the result of
16 an adjustment by the Internal Revenue Service, Tax Commission, or
17 any other applicable government agency, only the transferor
18 originally allowed the credit and not any subsequent transferee of
19 the credit, shall be held liable to repay any amount of disallowed
20 credit.

21 H. As used in this section:

22 1. "Certified historic hotel or historic newspaper plant
23 building" means a hotel or newspaper plant building that is listed
24

1 on the National Register of Historic Places within thirty (30)
2 months of taking the credit pursuant to this section.

3 2. "Certified historic structure" means a building that is
4 listed on the National Register of Historic Places within thirty
5 (30) months of taking the credit pursuant to this section or a
6 building located in Oklahoma which is certified by the State
7 Historic Preservation Office as contributing to the historic
8 significance of a certified historic district listed on the National
9 Register of Historic Places, or a local district that has been
10 certified by the State Historic Preservation Office as eligible for
11 listing in the National Register of Historic Places; and

12 3. "Qualified rehabilitation expenditures" means capital
13 expenditures that qualify for the federal rehabilitation credit
14 provided in Section 47 of Title 26 of the United States Code and
15 that were paid after December 31, 2000. Qualified rehabilitation
16 expenditures do not include capital expenditures for nonhistoric
17 additions except an addition that is required by state or federal
18 regulations that relate to safety or accessibility. In addition,
19 qualified rehabilitation expenditures do not include expenditures
20 related to the cost of acquisition of the property.

21 SECTION 5. AMENDATORY Section 1, Chapter 287, O.S.L.
22 2005, as amended by Section 2, Chapter 252, O.S.L. 2007 (68 O.S.
23 Supp. 2007, Section 2357.67), is amended to read as follows:

1 Section 2357.67 A. For tax years beginning after December 31,
2 2004, and before January 1, 2013, there shall be allowed a credit
3 against the tax imposed by Section 2355 of this title for any
4 biodiesel facility which is in production at the rate of at least
5 twenty-five percent (25%) of its name plate design capacity for the
6 production of biodiesel, on or before December 31, 2008. The
7 completion of the construction of such facilities must be after the
8 date of this act. The credit shall be in the amount of twenty cents
9 (\$0.20) per gallon of biodiesel produced and shall be allowed for
10 sixty (60) months beginning with the first month for which the
11 facility is eligible to receive such credit and ending not later
12 than December 31, 2012. The credit may only be claimed if the
13 biodiesel facility maintains an average production rate of at least
14 twenty-five percent (25%) of its name plate design capacity for at
15 least six (6) months after the first month for which it is eligible
16 to receive such credit.

17 B. As used in this section:

18 1. "Biodiesel facility" means a plant or facility located
19 within the State of Oklahoma and primarily engaged in the production
20 of biodiesel derived from animal fats, grain components, coproducts,
21 or byproducts; and

22 2. "Name plate design capacity" means the original designed
23 capacity of a biodiesel facility. Capacity may be specified as
24 gallons of biodiesel produced per year.

1 C. Any biodiesel facility eligible for a tax credit under
2 subsection A of this section shall also receive a credit against the
3 tax imposed by Section 2355 of this title in the amount of twenty
4 cents (\$0.20) per gallon of biodiesel produced in excess of the
5 original name plate design capacity which results from expansion of
6 the facility completed on or after the effective date of this act
7 and before December 31, 2008. Such tax credit shall be allowed for
8 sixty (60) months beginning with the first month for which
9 production from the expanded facility is eligible to receive such
10 tax credit and ending not later than December 31, 2012.

11 D. 1. Beginning January 1, 2013, a biodiesel facility shall
12 receive a credit against the tax imposed by Section 2355 of this
13 title in the amount of seven and one-half cents (\$0.075) per gallon
14 of biodiesel, for new production for a period not to exceed thirty-
15 six (36) consecutive months.

16 2. For purposes of this subsection, "new production" means
17 production which results from a new facility, a facility which has
18 not received credits prior to January 1, 2013, or the expansion of
19 the capacity of an existing facility by at least two million
20 (2,000,000) gallons first placed into service after January 1, 2013,
21 as certified by the design engineer of the facility to the Oklahoma
22 Tax Commission.

23 3. For expansion of the capacity of an existing facility, "new
24 production" means annual production in excess of twelve times the

1 monthly average of the highest three (3) months of biodiesel
2 production at a biodiesel facility during the twenty-four-month
3 period immediately preceding certification of the facility by the
4 design engineer.

5 4. No credits shall be allowed under this subsection for
6 expansion of the capacity of an existing facility until production
7 is in excess of twelve times the three-month average amount
8 determined under this subsection during any twelve-consecutive-month
9 period beginning no sooner than January 1, 2013.

10 5. The amount of a credit granted pursuant to this section
11 based on new production shall be approved by the Tax Commission
12 based on such biodiesel production records as may be necessary to
13 reasonably determine the level of new production.

14 E. 1. The credits described in this section shall be given
15 only for biodiesel produced at a plant in this state at which all
16 biodiesel esterification takes place.

17 2. Not more than twenty-five million (25,000,000) gallons of
18 biodiesel produced annually at a biodiesel facility shall be
19 eligible for the credits in subsections A and C of this section, and
20 the credits may only be claimed by a producer for the periods
21 specified in subsections A and C of this section.

22 3. Not more than ten million (10,000,000) gallons of biodiesel
23 produced during any twelve-consecutive-month period at a biodiesel
24 facility shall be eligible for the credit described in subsection D

1 of this section, and the credit may only be claimed by a producer
2 for the periods specified in subsection D of this section.

3 4. Not more than one hundred twenty-five million (125,000,000)
4 gallons of biodiesel produced at a biodiesel facility by the end of
5 the sixty-month period set forth in subsection A or C of this
6 section shall be eligible for the credit under such subsection. A
7 biodiesel facility which receives a credit for biodiesel produced
8 under subsection A or C of this section shall not receive a credit
9 under subsection D of this section until its eligibility to receive
10 a credit under subsection A or C of this section has been completed.

11 F. The Tax Commission shall prescribe an application form and
12 promulgate rules for claiming credits under this section.

13 G. For purposes of ascertaining the correctness of any
14 application for claiming a credit provided in this section, the Tax
15 Commission may examine or cause to have examined, by any agent or
16 representative designated for that purpose, any books, papers,
17 records, or memoranda bearing upon such matters.

18 H. If the credit allowed pursuant to this section exceeds the
19 amount of income taxes due or if there are no state income taxes due
20 on the income of the taxpayer, the amount of the credit allowed but
21 not used in any tax year may be carried forward as a credit against
22 subsequent income tax liability for a period not exceeding five (5)
23 years.

24

1 SECTION 6. AMENDATORY 68 O.S. 2001, Section 2913, as
2 amended by Section 4, Chapter 77, O.S.L. 2006 (68 O.S. Supp. 2007,
3 Section 2913), is amended to read as follows:

4 Section 2913. A. All taxes levied upon an ad valorem basis for
5 each fiscal year shall become due and payable on the first day of
6 November. Except for mortgage servicers, the exclusive method for
7 payment shall be as follows:

8 1. Unless one-half (1/2) of the taxes so levied has been paid
9 before the first day of January, the entire tax levy for such fiscal
10 year shall become delinquent on that date.

11 2. If the first half of the taxes levied upon an ad valorem
12 basis for any such fiscal year has been paid before the first day of
13 January, the second half shall be paid before the first day of April
14 thereafter and if not paid shall become delinquent on that date.

15 In no event may payment be made in more than two equal
16 installments subject to the provisions of the payment schedule
17 specified in this subsection.

18 B. Mortgage servicers, as defined in 24 C.F.R., part 3500.17,
19 shall pay all accounts which they are servicing in one annual
20 payment before the first day of January or the entire tax levy for
21 such fiscal year shall become delinquent on that date.

22 C. If the total tax owed is Twenty-five Dollars (\$25.00) or
23 less, then the total amount must be paid before January 1. If the
24 total tax is not paid before January 1, the unpaid balance owing

1 shall become delinquent on the first day of January and shall be
2 subject to delinquent charges as provided for in this section.

3 D. All delinquent taxes shall bear interest at the rate of one
4 and one-half percent (1 1/2%) per month or major fraction thereof
5 until paid. In no event shall such interest exceed a sum equal to
6 the unpaid principal amount of tax, and when such interest has
7 accumulated to a sum equivalent to one hundred percent (100%) of the
8 unpaid tax the further accumulation of interest shall cease.

9 E. In addition to any other penalties prescribed by law,
10 delinquent taxes shall be subject to a late payment penalty of five
11 percent (5%) per month or a major fraction thereof until paid. The
12 penalty assessed herein shall only apply to delinquent taxes that
13 are due on property located in a dependent school district in a
14 county with a population of less than seventy-five thousand (75,000)
15 according to the most recent Federal Decennial Census and held by a
16 nonindividual taxpayer when the tax has been paid delinquent for two
17 (2) or more separate and consecutive years and the fair cash value
18 of the property exceeds Five Hundred Thousand Dollars (\$500,000.00).

19 F. The county treasurer shall stamp the date of receipt on each
20 letter received containing funds for payment of taxes and no
21 interest shall be added or charged after the receipt of such letter
22 or the amount due. It shall be the duty of every person subject to
23 taxation according to the law to attend the county treasurer's
24 office and pay his or her taxes. If any person neglects to pay his

1 or her taxes until after they have become delinquent, the county
2 treasurer is directed and required to collect the delinquent tax as
3 provided for by law. The first half of taxes payable pursuant to
4 the provisions of this section shall not become delinquent until
5 thirty (30) days after the tax rolls have become completed and filed
6 by the county assessor with the county treasurer.

7 F. G. The county treasurer may waive penalties or interest in
8 any case where it is shown to the county treasurer that such
9 penalties or interest were incurred through no fault of the
10 taxpayer. Each waiver of penalties or interest shall be audited by
11 the Office of the State Auditor and Inspector each year during the
12 annual audit of the county offices.

13 SECTION 7. AMENDATORY Section 9 of Enrolled Senate Bill
14 No. 1865 of the 2nd Session of the 51st Oklahoma Legislature, is
15 amended to read as follows:

16 Section 9. A. A tax incentive review may be conducted each
17 year of those tax preferences or other provisions of tax law
18 specified by law or concurrent resolution of the Legislature or
19 designated by the Joint Committee on Accountability and Innovation,
20 subject to available funding. If funding is insufficient to conduct
21 every such tax incentive review, those specified by law shall
22 receive first priority and the Joint Committee shall specify the
23 priority of those specified by concurrent resolution of the
24 Legislature or designated by the Joint Committee. The Oklahoma Tax

1 Commission shall provide such assistance to the Committee in the
2 conduct of such reviews as may be necessary.

3 B. A tax incentive review shall include, but not be limited to:

4 1. A determination of the impact on state revenues due to the
5 granting of the tax preference or provision;

6 2. A determination of the economic benefit to the state due to
7 the granting of the tax preference or provision, whether measured in
8 increased state revenues, job creation, wage or personal income
9 growth, investment in this state, or other economic criteria;

10 3. An estimate of the effect on the distribution of the tax
11 burden upon citizens or legal entities of this state;

12 4. An analysis of the competitive position of this state
13 relative to other states with similar tax preferences or provisions;
14 and

15 5. An overall determination of the effectiveness of the tax
16 preference or provision in achieving the desired objective as set
17 forth in state law.

18 C. Copies of the reports of tax incentive reviews conducted
19 shall be furnished to the Governor, the President Pro Tempore of the
20 Senate, the Speaker of the House of Representatives, each member and
21 the staff of the Joint Committee on Accountability and Innovation,
22 the Tax Commission, and other interested persons or agencies as may
23 be specified by the Committee or required by law or by the
24

1 specifications of the review. The copies may be furnished
2 electronically.

3 ~~D. Notwithstanding the provisions of Section 205 of Title 68 of~~
4 ~~the Oklahoma Statutes, any person receiving tax information under~~
5 ~~the provisions of this section shall be subject to the same duty of~~
6 ~~confidentiality imposed by law upon the Tax Commission and shall be~~
7 ~~subject to any civil or criminal penalties imposed by law for~~
8 ~~violations of such duty of confidentiality.~~

9 SECTION 8. AMENDATORY 68 O.S. 2001, Section 2357.35, as
10 amended by Section 1, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
11 Section 2357.35), is amended to read as follows:

12 Section 2357.35 The Legislature hereby finds:

13 1. That the general welfare and material well-being of the
14 citizens of the State of Oklahoma depend, in large measure, upon the
15 development of tourism attractions and film, digital media or music
16 production facilities in this state;

17 2. That it is in the best interests of the citizens of this
18 state to induce the creation of new or the expansion of existing
19 tourism attractions and film, digital media or music production
20 facilities within this state in order to advance the public purposes
21 of relieving unemployment by preserving and creating jobs that would
22 not exist if not for the inducements to be offered by this state to
23 approved companies, and by preserving and creating sources of tax
24 revenues for the support of public services provided by this state;

1 3. That the authority prescribed by this act, and the purposes
2 to be accomplished under the provisions of this act, are proper
3 governmental and public purposes for which public funds may be
4 expended; and

5 4. That the inducement of the creation or expansion of tourism
6 attraction projects and film, digital media or music production
7 facility projects is of paramount importance, mandating that the
8 provisions of this act be liberally construed and applied in order
9 to advance public purposes.

10 SECTION 9. AMENDATORY 68 O.S. 2001, Section 2357.36, as
11 amended by Section 2, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
12 Section 2357.36), is amended to read as follows:

13 Section 2357.36 As used in the Oklahoma Tourism Development
14 Act:

15 1. "Agreement" means an agreement entered into pursuant to
16 Section 2357.39 of this title, by and between the Director of the
17 Oklahoma Tourism and Recreation Department and an approved company,
18 with respect to a tourism attraction project or film, digital media
19 or music production and development facility project;

20 2. "Approved company" means any eligible company that is
21 seeking to undertake a tourism attraction or film, digital media or
22 music production and development facility project and is approved by
23 the Director pursuant to Sections 2357.38 and 2357.39 of this title;

24 3. "Approved costs" means:

- 1 a. obligations incurred for labor and to vendors,
2 contractors, subcontractors, builders and suppliers in
3 connection with the acquisition, construction,
4 equipping and installation of a tourism attraction
5 project or film, digital media or music production and
6 development facility project,
- 7 b. the costs of acquiring real property or rights in real
8 property in connection with a tourism attraction
9 project or film, digital media or music production and
10 development facility project, and any costs incidental
11 thereto,
- 12 c. the costs of contract bonds and of insurance of all
13 kinds that may be required or necessary during the
14 course of the acquisition, construction, equipping and
15 installation of a tourism attraction project or film,
16 digital media or music production and development
17 facility project which is not paid by the vendor,
18 supplier, contractor, or otherwise provided,
- 19 d. all costs of architectural and engineering services
20 including, but not limited to, estimates, plans and
21 specifications, preliminary investigations, and
22 supervision of construction and installation, as well
23 as for the performance of all the duties required by
24 or consequent to the acquisition, construction,

1 equipping and installation of a tourism attraction
2 project or film, digital media or music production and
3 development facility project,

4 e. all costs required to be paid under the terms of any
5 contract for the acquisition, construction, equipping
6 and installation of a tourism attraction project or
7 film, digital media or music production and
8 development facility project,

9 f. all costs required for the installation of utilities
10 in connection with a tourism attraction project or
11 film, digital media or music production and
12 development facility project including, but not
13 limited to, water, sewer, sewage treatment, gas,
14 electricity and communications, and including off-site
15 construction of utility extensions paid for by the
16 approved company, and

17 g. all other costs comparable with those described in
18 this paragraph;

19 4. "Director" means the Director of the Oklahoma Tourism and
20 Recreation Department or the Director's designated representative;

21 5. "Eligible company" means any corporation, limited liability
22 company, partnership, sole proprietorship, business trust or any
23 other entity, operating or intending to operate a tourism attraction
24 project or undertake film, digital media or music production and

1 development facility project, whether owned or leased, within this
2 state that meets the standards promulgated by the Director pursuant
3 to Section 2357.37 of this title;

4 6. "Final approval" means the action taken by the Director
5 authorizing the eligible company to receive inducements under
6 Section 2357.40 of this title;

7 7. "Increased state sales tax liability" means that portion of
8 an approved company's reported state sales tax liability resulting
9 from taxable sales of goods and services to its customers at the
10 tourist attraction or for purposes of a film, digital media or music
11 production and development facility project for any monthly sales
12 tax reporting period after the approved company provides the
13 certification required by subsection B of Section 2357.40 of this
14 title, which exceeds the reported state sales tax liability for
15 sales to its customers for the same month in the calendar year
16 immediately preceding the certification;

17 8. "Inducements" means the income tax credit or sales tax
18 credit as prescribed in Section 2357.40 of this title;

19 9. "Preliminary approval" means the action taken by the
20 Director conditioned upon final approval by the Director upon
21 satisfaction by the eligible company of the requirements of the
22 Oklahoma Tourism Development Act;

23 10. a. "Tourism attraction" means:

24 (1) a cultural or historical site,

- 1 (2) a recreational or entertainment facility,
- 2 (3) an area of natural phenomenon or scenic beauty,
- 3 (4) a theme park,
- 4 (5) an amusement or entertainment park,
- 5 (6) an indoor or outdoor play or music show,
- 6 (7) a botanical garden, or
- 7 (8) a cultural or educational center.

8 b. A tourism attraction shall not include:

- 9 (1) lodging facilities, unless the facilities
10 constitute a portion of a tourism attraction
11 project and represent less than fifty percent
12 (50%) of the total approved costs of the tourism
13 attraction project,
- 14 (2) facilities that are primarily devoted to the
15 retail sale of goods, unless the goods are
16 created at the site of the tourism attraction
17 project or if the sale of goods is incidental to
18 the tourism attraction project,
- 19 (3) facilities that are not open to the general
20 public,
- 21 (4) facilities that do not serve as a likely
22 destination where individuals who are not
23 residents of this state would remain overnight in
24

1 commercial lodging at or near the tourism
2 attraction project,

3 (5) facilities owned by the State of Oklahoma or a
4 political subdivision of this state, or

5 (6) facilities established for the purpose of
6 conducting legalized gambling. However, a
7 facility regulated under Section 200 et seq. of
8 Title 3A of the Oklahoma Statutes shall be a
9 tourism attraction for purposes of the Oklahoma
10 Tourism Development Act for any approved project
11 as outlined in subparagraph a of this paragraph
12 or for an approved project relating to pari-
13 mutuel racing at the facility and not for
14 establishing a casino or for offering casino-
15 style gambling; and

16 11. "Tourism attraction project", "film, digital media or music
17 production and development facility project" or "project" means:

18 a. the acquisition, including the acquisition of real
19 estate by leasehold interest with a minimum term of
20 ten (10) years, construction, and equipping of a
21 tourism attraction or film, digital media or music
22 production and development facility, and

23 b. the construction and installation of improvements to
24 facilities necessary or desirable for the acquisition,

1 construction, and installation of a tourism attraction
2 or film, digital media or music production and
3 development facility, including, but not limited to:
4 (1) surveys, and
5 (2) installation of utilities, which may include:
6 (a) water, sewer, sewage treatment, gas,
7 electricity, communications, and similar
8 facilities, and
9 (b) off-site construction of utility extensions
10 to the boundaries of the real estate on
11 which the facilities are located,
12 all of which are to be used to improve the economic
13 situation of the approved company in a manner that
14 shall allow the approved company to attract tourists.

15 SECTION 10. AMENDATORY 68 O.S. 2001, Section 2357.37, as
16 amended by Section 3, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
17 Section 2357.37), is amended to read as follows:

18 Section 2357.37 A. The Director of the Oklahoma Tourism and
19 Recreation Department, with approval of the Oklahoma Tourism and
20 Recreation Commission, shall establish standards for the making of
21 applications for inducements to eligible companies and their tourism
22 attraction projects, or film, digital media and music production and
23 development facility projects by the promulgation of rules in
24 accordance with the Administrative Procedures Act.

1 B. With respect to each eligible company making an application
2 to the Director for inducements, and with respect to the tourism
3 attraction or film, digital media and music production and
4 development facility project described in the application, the
5 Director shall make inquiries and request materials of the applicant
6 that shall include, but shall not be limited to:

7 1. Marketing plans for the project that target individuals who
8 are not residents of this state;

9 2. A description and location of the project;

10 3. Capital and other anticipated expenditures for the project
11 that indicate that the total cost of the project shall exceed ~~Five~~
12 ~~Hundred Thousand Dollars (\$500,000.00)~~ the minimum amount set forth
13 in subsection C of this section and the anticipated sources of
14 funding therefor;

15 4. The anticipated employment and wages to be paid at the
16 project;

17 5. Business plans which indicate the average number of days in
18 a year in which the project will be in operation and open to the
19 public, if applicable; and

20 6. The anticipated revenues and expenses generated by the
21 project.

22 Based upon a review of these materials, if the Director determines
23 that the eligible company and the tourism attraction or film,
24 digital media and music production and development facility project

1 may reasonably be expected to satisfy the criteria for final
2 approval in subsection C of this section, then the Director may
3 consider granting a preliminary approval of the eligible company and
4 the tourism attraction project pursuant to subsection B of Section
5 2357.38 of this title.

6 C. 1. For a tourism attraction project, after granting a
7 preliminary approval, the Director shall engage the services of a
8 competent consulting firm which shall submit to the Director a
9 report analyzing the data made available by the eligible company and
10 which shall collect and analyze additional information necessary to
11 determine that, in the independent judgment of the consultant, the
12 tourism attraction project will:

- 13 a. attract at least twenty-five percent (25%) of its
14 visitors from among persons who are not residents of
15 this state;
- 16 b. have costs in excess of Five Hundred Thousand Dollars
17 (\$500,000.00);
- 18 c. have a significant and positive economic impact on
19 this state considering, among other factors, the
20 extent to which the tourism attraction project will
21 compete directly with existing tourism attractions in
22 this state, and the amount by which increased tax
23 revenues from the tourism attraction project will

24

1 exceed the sales tax credit or income tax credit
2 allowed pursuant to Section 2357.40 of this title;

3 d. produce sufficient revenues and public demand to be
4 operating and open to the public on a regular and
5 persistent basis; and

6 e. not adversely affect existing employment in this
7 state.

8 2. For a film, digital media or music production and
9 development facility project, after granting a preliminary approval,
10 the Director shall engage the services of a competent consulting
11 firm which shall submit to the Director a report analyzing the data
12 made available by the eligible company and which shall collect and
13 analyze additional information necessary to determine that, in the
14 independent judgment of the consultant, the film, digital media or
15 music production and development facility will:

16 a. for music production and postproduction facilities
17 have costs in excess of ~~Five Hundred Thousand Dollars~~
18 ~~(\$500,000.00)~~ One Hundred Thousand Dollars
19 (\$100,000.00), for film and digital media production
20 and postproduction facilities have costs in excess of
21 Three Hundred Fifty Thousand Dollars (\$350,000.00);

22 b. have a significant and positive economic impact on
23 this state considering, among other factors, the
24 extent to which the film, digital media or music

1 production and development facility will compete
2 directly with existing facilities in this state, and
3 the amount by which increased tax revenues from the
4 facility will exceed the sales tax credit or income
5 tax credit allowed pursuant to Section 2357.40 of this
6 title; and

7 c. not adversely affect existing employment in this
8 state.

9 D. The eligible company shall pay for the cost of the
10 consultant's report and shall cooperate with the consultant and
11 provide all of the data that the consultant deems necessary to make
12 a determination of this section.

13 SECTION 11. AMENDATORY 68 O.S. 2001, Section 2357.38, as
14 amended by Section 4, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
15 Section 2357.38), is amended to read as follows:

16 Section 2357.38 A. The Director of the Oklahoma Tourism and
17 Recreation Department, with the approval of the Oklahoma Tourism and
18 Recreation Commission, shall establish standards for preliminary
19 approval and final approval of eligible companies and their projects
20 by the promulgation of rules in accordance with the Administrative
21 Procedures Act.

22 B. The Director may give preliminary approval by designating an
23 eligible company as a preliminarily approved company and
24 preliminarily authorizing the undertaking of the tourism attraction

1 project or film, digital media or music production and development
2 facility project.

3 C. The Director shall review the report of the consultant
4 prepared pursuant to subsection C of Section 2357.37 of this title
5 and other information that has been made available to the Director
6 in order to assist the Director in determining whether the tourism
7 attraction project or film, digital media and music production and
8 development facility project will further the purposes of the
9 Oklahoma Tourism Development Act.

10 D. The criteria for final approval of eligible companies and
11 tourism attraction projects or film, digital media and music
12 production and development facility projects shall include, but
13 shall not be limited to, the criteria set forth in subsection C of
14 Section 2357.37 of this title.

15 E. After a review of the relevant materials, the consultant's
16 report, other information made available to the Director, and
17 completion of other inquiries, the Director may give final approval
18 to the eligible company's application for a tourism attraction
19 project or film, digital media and music production and development
20 facility project and may grant to the eligible company the status of
21 an approved company. The decision reached by the Director may be
22 appealed by the eligible company to the Oklahoma Tourism and
23 Recreation Commission. The decision of the Oklahoma Tourism and
24

1 Recreation Commission shall constitute the final administrative
2 decision of the Oklahoma Tourism and Recreation Department.

3 SECTION 12. AMENDATORY 68 O.S. 2001, Section 2357.39, as
4 last amended by Section 5, Chapter 429, O.S.L. 2005 (68 O.S. Supp.
5 2007, Section 2357.39), is amended to read as follows:

6 Section 2357.39 A. Upon granting final approval, the Director
7 of the Oklahoma Tourism and Recreation Department may enter into an
8 agreement with an approved company with respect to its tourism
9 attraction project or film, digital media and music production and
10 development facility project. The terms and provisions of each
11 agreement shall include, but shall not be limited to:

12 1. The amount of approved costs, which shall be determined by
13 negotiations between the Director and the approved company;

14 2. A date certain by which the approved company shall have
15 completed the tourism attraction project or film, digital media and
16 music production and development facility project. Within three (3)
17 months of the completion date, the approved company shall document
18 the actual cost of the project through a certification of the costs
19 by an independent certified public accountant acceptable to the
20 Director; and

21 3. The following provisions:

22 a. the term of the agreement shall be ten (10) years from
23 the later of:

24

1 (1) the date of the final approval of the tourism
2 attraction project or film, digital media and
3 music production and development facility
4 project, or

5 (2) the completion date specified in the agreement,
6 if the completion date is within two (2) years of
7 the date of the final approval of the tourism
8 attraction project or film, digital media and
9 music production and development facility
10 project. However, the term of the agreement may
11 be extended for up to two (2) additional years by
12 the Director, with the advice and consent of the
13 Oklahoma Tax Commission, if the Director
14 determines that the failure to complete the
15 tourism attraction project or film, digital media
16 and music production and development facility
17 project within two (2) years resulted from:

18 (a) unanticipated and unavoidable delay in the
19 construction of the tourism attraction
20 project or film, digital media and music
21 production and development facility project,

22 (b) an original completion date for the tourism
23 attraction project or film, digital media
24 and music production and development

1 facility project, as originally planned,
2 which will be more than two (2) years from
3 the date construction began, or

4 (c) a change in business ownership or business
5 structure resulting from a merger or
6 acquisition,

7 b. in any tax year during which an agreement is in
8 effect, if the amount of income tax due from the
9 approved company exceeds the state income tax credit
10 available to the approved company, then the approved
11 company shall pay the excess to this state as income
12 tax, and if in any tax year during which an agreement
13 is in effect, if the amount of sales tax to be
14 remitted by the approved company exceeds the sales tax
15 credit available to the approved company, then the
16 approved company shall pay the excess to this state as
17 sales tax,

18 c. within forty-five (45) days after the end of each
19 calendar year, the approved company shall supply the
20 Director with such reports and certifications as the
21 Director may request demonstrating to the satisfaction
22 of the Director that the approved company is in
23 compliance with the provisions of the Oklahoma Tourism
24 Development Act, and

1 d. the approved company shall not receive an inducement
2 with respect to any calendar year if:

3 (1) for a tourism attraction project:

4 (a) in any calendar year following the fourth
5 year of the agreement, the tourism
6 attraction project fails to attract at least
7 fifteen percent (15%) of its visitors from
8 among persons who are not residents of this
9 state, or

10 (b) in any calendar year following the first
11 year of the agreement, the tourism
12 attraction project is not operating and open
13 to the public on a regular and consistent
14 basis, or

15 (2) for a film, digital media or music production and
16 development facility project, in any calendar
17 year following the fourth year of the agreement,
18 the facility fails to have a significant and
19 positive impact on the state.

20 B. The agreement shall not be transferable or assignable by the
21 approved company without the written consent of the Director.

22 C. If the approved company utilizes inducements which are
23 subsequently disallowed, then the approved company will be liable
24 for the payment to the Tax Commission of all taxes resulting from

1 the disallowance of the inducements plus applicable penalties and
2 interest.

3 D. The Director shall provide a copy of each agreement entered
4 into with an approved company to the Tax Commission.

5 SECTION 13. AMENDATORY 68 O.S. 2001, Section 2357.40, as
6 amended by Section 6, Chapter 429, O.S.L. 2005 (68 O.S. Supp. 2007,
7 Section 2357.40), is amended to read as follows:

8 Section 2357.40 A. Upon receiving notification from the
9 Director of the Oklahoma Tourism and Recreation Department that an
10 approved company has entered into a tourism project agreement or a
11 film, digital media and music production and development facility
12 project agreement and is entitled to the inducements provided by the
13 Oklahoma Tourism Development Act, the Oklahoma Tax Commission shall
14 provide the approved company with forms and instructions as
15 necessary to claim those inducements.

16 B. An approved company whose agreement provides that it shall
17 expend approved costs of more than One Hundred Thousand Dollars
18 (\$100,000.00) for music production and postproduction facilities,
19 Three Hundred Fifty Thousand Dollars (\$350,000.00) for film and
20 digital media production and postproduction facilities, and more
21 than Five Hundred Thousand Dollars (\$500,000.00) for a tourism
22 attraction project but less than One Million Dollars (\$1,000,000.00)
23 shall be entitled to an income tax credit or a sales tax credit if
24 the company certifies to the Tax Commission that it has expended at

1 least ~~Five Hundred Thousand Dollars (\$500,000.00)~~ the minimum amount
2 in approved costs, and the Director certifies that the approved
3 company is in compliance with the Oklahoma Tourism Development Act.
4 The Tax Commission shall then issue a tax credit memorandum to the
5 approved company granting an income tax credit or sales tax credit
6 in the amount of ten percent (10%) of the approved costs.
7 Subsequent requests for credit for additional certified approved
8 costs in excess of ~~Five Hundred Thousand Dollars (\$500,000.00)~~ the
9 minimum amount for each project as listed in this subsection but
10 less than One Million Dollars (\$1,000,000.00) shall result in an
11 income tax credit or sales tax credit in the amount of ten percent
12 (10%) of the approved costs. Income tax credits or sales tax
13 credits allowed pursuant to the provisions of the Oklahoma Tourism
14 Development Act shall not be transferable or assignable.

15 An approved company whose agreement provides that it shall
16 expend approved costs in excess of One Million Dollars
17 (\$1,000,000.00) shall be entitled to an income tax credit or sales
18 tax credit if the company certifies to the Tax Commission that it
19 has expended at least One Million Dollars (\$1,000,000.00) in
20 approved costs and the Director certifies that the approved company
21 is in compliance with the Oklahoma Tourism Development Act. The Tax
22 Commission shall then issue a tax credit memorandum to the approved
23 company granting an income tax credit or sales tax credit in the
24 amount of twenty-five percent (25%) of the approved costs. The

1 credit on all subsequent additional certified approved costs shall
2 be in the amount of twenty-five percent (25%) of the costs.

3 The Tax Commission may require proof of expenditures.
4 Additional credit memoranda may be issued as the approved company
5 certifies additional expenditures of approved costs.

6 No tax credit memorandum shall be issued for any approved costs
7 expended after the expiration of two (2) years from the date the
8 agreement was signed by the Director and the approved company.

9 However, the Director, with the advice and consent of the Tax
10 Commission, may authorize tax credits for approved costs expended up
11 to four (4) years from the date the agreement was signed if the
12 Director determines that the failure to complete the tourism
13 attraction project within two (2) years resulted from:

14 1. Unanticipated and unavoidable delay in the construction of
15 the tourism attraction or film, digital media and music production
16 and development facility project;

17 2. An original completion date for the tourism attraction or
18 film, digital media and music production and development facility
19 project, as originally planned, which will be more than two (2)
20 years from the date construction began; or

21 3. A change in business ownership or business structure
22 resulting from a merger or acquisition.

23 C. 1. An income tax credit allowed pursuant to the provisions
24 of this section shall be applied to the amount of income taxes due

1 from the approved company. If the amount of an income tax credit
2 allowed pursuant to the provisions of this section exceeds the
3 amount of income taxes due for the year in which the credit is
4 granted, the amount of the credit not used may be carried forward
5 for a period not to exceed ten (10) years.

6 2. A sales tax credit allowed pursuant to the provisions of
7 this section may be used to offset a portion of the reported state
8 sales tax liability of the approved company for all sales tax
9 reporting periods following the issuance of the credit memorandum
10 subject to the following limitations:

- 11 a. only increased state sales tax liability may be offset
12 by the issued credit,
- 13 b. an approved company whose agreement provides that it
14 shall expend approved costs in excess of One Million
15 Dollars (\$1,000,000.00) shall be entitled to use only
16 ten percent (10%) of the amount of each issued credit
17 to offset increased state sales tax liability during
18 each calendar year, plus the amount of any unused
19 credit carried forward from a prior calendar year, and
20 an approved company whose agreement provides that it
21 shall expend approved costs of more than ~~Five Hundred~~
22 ~~Thousand Dollars (\$500,000.00)~~ the minimum amount for
23 each project as listed in this subsection but less
24 than One Million Dollars (\$1,000,000.00) shall be

1 entitled to use only twenty percent (20%) of the
2 amount of each issued credit to offset increased state
3 sales tax liability during each calendar year, plus
4 the amount of any unused credit carried forward from a
5 prior calendar year, and

6 c. all issued credit memoranda shall expire at the end of
7 the month following the expiration of the agreement as
8 provided in Section 2357.39 of this title.

9 The approved company shall have no obligation to refund or
10 otherwise return any amount of this credit to the person from whom
11 the sales tax was collected.

12 D. The Tax Commission shall promulgate rules as are necessary
13 for the proper administration of the Oklahoma Tourism Development
14 Act. The Tax Commission may also develop forms and instructions as
15 necessary for an approved company to claim the income tax credit
16 provided by the Oklahoma Tourism Development Act.

17 E. The Tax Commission shall have the authority to obtain any
18 information necessary from the approved company and the Director to
19 verify that approved companies have received the proper amounts of
20 tax credits as authorized by the Oklahoma Tourism Development Act.
21 The Oklahoma Tax Commission shall demand the repayment of any
22 credits taken in excess of the credit allowed by the Oklahoma
23 Tourism Development Act.

1 F. No income or sales tax credit authorized by this section
2 shall be granted on or after January 1, 2014.

3 SECTION 14. AMENDATORY 68 O.S. 2001, Section 3623, as
4 last amended by Section 1, Chapter 341, O.S.L. 2007 (68 O.S. Supp.
5 2007, Section 3623), is amended to read as follows:

6 Section 3623. As used in the Compete with Canada Film Act:

7 1. "Crew" means any person who works on preproduction,
8 principal photography, and postproduction, with the exception of
9 producers, principal cast, screenwriters, and the director. The
10 qualifying salary of producers, principal cast, screenwriters, and
11 the director, also known as "above-the-line personnel", may be
12 included as crew if the salaries are paid to loan-out corporations
13 and limited liability companies registered to do business in the
14 State of Oklahoma or the salaries are paid to Oklahoma-based above-
15 the-line personnel. The qualifying salary of above-the-line
16 personnel shall not comprise more than twenty-five percent (25%) of
17 total expenditures as defined in paragraph 2 of this section. For
18 purposes of this paragraph, "Oklahoma-based" means a company or
19 individual with an Oklahoma income tax ~~or corporate tax liability~~
20 requirement;

21 2. "Expenditure" or "production cost" includes but is not
22 limited to:

- 23 a. wages or salaries of persons who are
24 residents of this state and who have earned

1 income from working on a film in this state,
2 including payments to personal services
3 corporations with respect to the services of
4 qualified performing artists, as determined
5 under Section 62(a) (A) of the Internal
6 Revenue Code,

7 b. the cost of construction and operations,
8 wardrobe, accessories and related services,

9 c. the cost of photography, sound
10 synchronization, lighting and related
11 services,

12 d. the cost of editing and related services,

13 e. rental of facilities and equipment,

14 f. other direct costs of producing a film, and

15 g. the wages and salaries of persons who are
16 defined and registered as an Oklahoma
17 Expatriate by the Office of the Oklahoma Film
18 and Music Commission;

19 3. "Film" means a professional single media, multimedia program
20 or feature, which is not child pornography as defined in subsection
21 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
22 material as defined in paragraph 1 of subsection B of Section 1024.1
23 of Title 21 of the Oklahoma Statutes, including, but not limited to,
24 national advertising messages that are broadcast on a national

1 affiliate or cable network, fixed on film or digital video, which
2 can be viewed or reproduced and which is exhibited in theaters,
3 licensed for exhibition by individual television stations, groups of
4 stations, networks, cable television stations or other means or
5 licensed for home viewing markets; and

6 4. "Production company" means a person or company who produces
7 film for exhibition in theaters, on television or elsewhere.

8 SECTION 15. AMENDATORY 68 O.S. 2001, Section 3624, as
9 last amended by Section 2, Chapter 341, O.S.L. 2007 (68 O.S. Supp.
10 2007, Section 3624), is amended to read as follows:

11 Section 3624. A. There is hereby created the Oklahoma Film
12 Enhancement Rebate Program. A rebate in the amount of up to ~~fifteen~~
13 ~~percent (15%)~~ seventeen percent (17%) of documented expenditures
14 made in Oklahoma directly attributable to the production of a film,
15 television production, or television commercial, as defined in
16 Section 3623 of this title, in this state, may be paid to the
17 production company responsible for the production if the Office of
18 the Oklahoma Film and Music Commission determines that the proposed
19 project has a reasonable chance of economic success.

20 B. 1. The amount of rebate paid to the production company as
21 provided for in subsection A of this section shall be determined as
22 follows:
23
24

- 1 a. fifteen percent (15%) if fifty percent (50%) or more
2 of the crew are residents of Oklahoma and are employed
3 in this state,
4 b. ten percent (10%) if twenty-five percent (25%) to
5 forty-nine percent (49%) of the crew are residents of
6 Oklahoma and are employed in this state, and
7 c. five percent (5%) if less than twenty-five percent
8 (25%) of the crew are residents of Oklahoma and are
9 employed in this state.

10 2. For a production company that spends at least Twenty
11 Thousand Dollars (\$20,000.00) for the use of music created by an
12 Oklahoma resident that is recorded in Oklahoma or for the cost of
13 recording songs or music in Oklahoma for use in the production, a
14 two-percent rebate shall be paid which shall be in addition to the
15 rebate paid as provided for in paragraph 1 of this subsection.

16 3. For a production company with a minimum budget for a film of
17 Five Million Dollars (\$5,000,000.00) or more, the amount of rebate
18 paid as provided for in subsection A of this section shall be
19 fifteen percent (15%). The Oklahoma crew requirements set forth in
20 paragraph 1 of this subsection shall not apply to production
21 companies that meet the minimum budget requirements of this
22 paragraph.

23 ~~3.~~ 4. The Oklahoma crew requirements set forth in paragraph 1
24 of this subsection shall not apply if it is determined there is a

1 lack of available Oklahoma personnel to serve as crew. The lack of
2 available Oklahoma personnel to serve as crew shall be verified in
3 writing by the Office of the Oklahoma Film and Music Commission.
4 The amount of rebate paid as provided for in subsection A of this
5 section to a production company where the Oklahoma crew requirements
6 have been waived pursuant to this paragraph shall be fifteen percent
7 (15%).

8 C. The rebate program shall be administered by the Office of
9 the Oklahoma Film and Music Commission and the Oklahoma Tax
10 Commission, as provided in the Compete with Canada Film Act.

11 D. To be eligible for a rebate payment:

12 1. The production company responsible for a film, television
13 production, or television commercial, as defined in Section 3623 of
14 this title, made in this state shall submit documentation to the
15 Office of the Oklahoma Film and Music Commission of the amount of
16 wages paid for employment in this state to residents of this state
17 directly relating to the production and the amount of other
18 production costs incurred in this state directly relating to the
19 production;

20 2. The production company shall also file an Oklahoma income
21 tax return;

22 3. Except major studio productions, the production company
23 shall provide the name of the completion guarantor and a copy of the
24 bond guaranteeing the completion of the project or if a film has not

1 secured a completion bond, the production company shall provide
2 evidence that all Oklahoma crew and local vendors have been paid and
3 there are no liens against the production company pending in the
4 state;

5 4. The minimum budget for the film shall be Five Hundred
6 Thousand Dollars (\$500,000.00) of which not less than Three Hundred
7 Thousand Dollars (\$300,000.00) shall be expended in this state. The
8 minimum budget requirements of this paragraph shall be met by any
9 film, television, or commercial production company that produces
10 multiple film, television, or commercial projects within one (1)
11 year, if each project meets a minimum budget of Two Hundred Fifty
12 Thousand Dollars (\$250,000.00) and the total budget of all projects
13 in one (1) year is not less than Five Hundred Thousand Dollars
14 (\$500,000.00) of which not less than Three Hundred Thousand Dollars
15 (\$300,000.00) shall be expended in this state;

16 5. The production company shall provide evidence of a
17 recognizable domestic or foreign distribution agreement, provide
18 evidence of being selected as a pilot for a nationally recognized
19 network or cable television outlet, or provide evidence of being
20 accepted to at least one of the top fifteen film festivals or two or
21 more of the top thirty film festivals in the United States as
22 determined by the Office of the Oklahoma Film and Music Commission
23 within one (1) year from the end of principal photography;

24

1 6. The production company shall provide evidence of complete
2 financing for production prior to the commencement of principal
3 photography; and

4 7. The production company shall provide evidence of a
5 certificate of general liability insurance with a minimum coverage
6 of One Million Dollars (\$1,000,000.00) and a workers' compensation
7 policy pursuant to state law, which shall include coverage of
8 employer's liability.

9 E. A production company shall not be eligible to receive both a
10 rebate payment pursuant to the provisions of this act and an
11 exemption from sales taxes pursuant to the provisions of paragraph
12 21 of Section 1357 of this title. If a production company has
13 received such an exemption from sales taxes and submits a claim for
14 rebate pursuant to the provisions of the Compete with Canada Film
15 Act, the company shall be required to fully repay the amount of the
16 exemption to the Tax Commission. A claim for a rebate shall include
17 documentation from the Tax Commission that repayment has been made
18 as required herein or shall include an affidavit from the production
19 company that the company has not received an exemption from sales
20 taxes pursuant to the provisions of paragraph 21 of Section 1357 of
21 this title.

22 F. The Office shall approve or disapprove all claims for rebate
23 and shall notify the Tax Commission. The Tax Commission shall issue
24 payment for all approved claims from funds in the Oklahoma Film

1 Enhancement Rebate Program Revolving Fund created in Section 3625 of
2 this title on or after July 1, 2006, and on or after each July 1
3 thereafter following the fiscal year in which the documented
4 expenditures were made. The amount of payments in any single fiscal
5 year shall not exceed Five Million Dollars (\$5,000,000.00). If the
6 amount of approved claims exceeds the amount specified in this
7 subsection in a fiscal year, payments shall be made in the order in
8 which the claims are approved by the Office. If an approved claim
9 is not paid in whole or in part, the unpaid claim or unpaid portion
10 may be paid in the following fiscal year subject to the limitations
11 specified in this subsection.

12 SECTION 16. AMENDATORY 68 O.S. 2001, Section 3626, is
13 amended to read as follows:

14 Section 3626. The provisions of ~~this act~~ the Compete with
15 Canada Film Act shall be terminated effective July 1, ~~2011~~ 2014, and
16 no claim shall be paid thereafter.

17 SECTION 17. Sections 1, 2, 3, 5 and 8 through 16 of this act
18 shall become effective July 1, 2009.

19 SECTION 18. Sections 4 and 6 of this act shall become effective
20 January 1, 2009.

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